



January 30, 2004

HOUSE BILL No. 1309

DIGEST OF HB 1309 (Updated January 26, 2004 9:39 pm - DI 92)

Citations Affected: IC 22-3; IC 27-4; IC 33-13; noncode.

Synopsis: Worker's compensation. Requires members of the worker's compensation board (board) to be attorneys admitted to the bar for at least five years and sets board member compensation equal to that of full-time superior court judges. Increases the term of board members from four to 12 years. Establishes a performance evaluation committee to review the performance of board members. Authorizes the board to appoint board ombudsmen to determine issues arising under worker's compensation, with certain exceptions. Requires ombudsmen to report their findings in an evidentiary hearing to the board and requires a board member to enter the final order or award. Establishes a process for transferring or redirecting an employee's medical treatment to another physician. Provides for a uniform two year statute of limitations for worker's compensation and occupational disease claims. Establishes a penalty for failure to timely pay temporary total disability compensation or a final judgment. Requires the appointment of an independent medical examiner when an employee's temporary total disability or permanent partial impairment rating is not determined by the attending physician. Increases worker's compensation and occupational disease benefits. Increases the minimum average weekly wage. Revises the funding mechanism for the second injury fund (fund). Extends fund coverage to occupational diseases. Authorizes a 10% prejudgment interest rate for disputed worker's compensation and occupational disease claims. Establishes disabled from trade compensation. Establishes a fine for failure to pay assessments into the second injury fund. Requires the board to refer an insurance carrier that

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Effective: July 1, 2004.

Liggett

January 15, 2004, read first time and referred to Committee on Labor and Employment.
 January 22, 2004, amended, reported — Do Pass; referred to Committee on Ways and Means pursuant to Rule 127.
 January 29, 2004, amended, reported — Do Pass.

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Digest Continued

does not pay the assessments to the department of insurance for administrative action for committing an unfair or deceptive act and practice. Authorizes an assessment based on written premium and self-insured employers to fund the administrative expenses of the board. Increases burial payment.

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HB 1309—LS 7235/DI 102+



January 30, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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HOUSE BILL No. 1309

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-3-1-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) There is hereby created the
3 worker's compensation board of Indiana, which shall consist of seven
4 (7) members, not more than four (4) of whom shall belong to the same
5 political party, appointed by the governor, one (1) of whom ~~he the~~
6 **governor** shall designate as ~~chairman~~ **chair. To be appointed as a**
7 **member of the board after June 30, 2004, including the chairman of**
8 **said board chair, a person** shall be an attorney of recognized
9 qualifications **admitted to the bar of Indiana for at least five (5)**
10 **years.**

11 (b) Each member of said board **appointed before July 1, 2004,**
12 **shall hold office for four (4) years and until his the member's**
13 **successor is appointed and qualified. A member of the board**
14 **appointed after June, 30, 2004, shall hold office for twelve (12)**
15 **years and until the member's successor is appointed and qualified.**

16 (c) Each member of the board shall devote ~~his the member's~~ entire
17 time to the discharge of the duties of ~~his the member's~~ office and shall

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1 not hold any other position of trust or profit or engage in any
2 occupation or business. ~~interfering with or inconsistent with the~~
3 ~~discharge of his duties as such member.~~

4 (d) Any member of said board may be removed by the governor at
5 any time for incompetency, neglect of duty, misconduct in office, or
6 other good cause to be stated in writing in the order of removal. **The**
7 **performance of a board member appointed after June 30, 2004, is**
8 **subject to review at least every four (4) years by the performance**
9 **evaluation committee established by section 4 of this chapter.** In
10 case of a vacancy in the membership of the said board, the governor
11 shall appoint for the unexpired term.

12 (e) **A board member appointed after June 30, 2004, is entitled**
13 **to:**

14 (1) **a salary equal to the salary of a full-time superior court**
15 **judge; and**

16 (2) **the nonsalary benefits provided to judges under IC 33-13.**

17 (f) **Subject to subsection (l),** the budget agency, with the approval
18 of the governor, shall approve the salaries of the members of the board
19 and the secretary.

20 (g) The board may appoint a secretary and may remove such
21 secretary. The secretary shall have authority to administer oaths and
22 issue subpoenas in connection with the administration of IC 22-3-2
23 through IC 22-3-7.

24 (h) **The board may appoint board ombudsmen and may remove**
25 **the board ombudsmen.**

26 (i) The board, subject to the approval of the governor, may
27 employ and fix the compensations of such clerical and other assistants
28 as it may deem necessary.

29 (j) The members of the board and its assistants shall be entitled
30 to receive from the state their actual and necessary expenses while
31 traveling on the business of the board, but such expenses shall be
32 approved by the chairman of the board before payment is made.

33 (k) **Except as provided by subsection (l),** all salaries and
34 expenses of the board shall be audited and paid out of the state treasury
35 in the manner prescribed for similar expenses in other departments or
36 branches of the state service.

37 (l) **The salaries of board members and the board ombudsmen**
38 **appointed under subsection (h) must be paid out of the worker's**
39 **compensation supplemental administrative fund established by**
40 **IC 22-3-5-6 and audited in the manner prescribed for similar**
41 **expenses in other departments or branches of the state service.**

42 SECTION 2. IC 22-3-1-3 IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The worker's compensation board may adopt rules under IC 4-22-2 to carry into effect the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7).

(b) The worker's compensation board is authorized:

- (1) to hear, determine, and review all claims for compensation under IC 22-3-2 through IC 22-3-7;
- (2) to require medical service for injured employees;
- (3) to approve claims for medical service or attorney's fees and the charges for nurses and hospitals;
- (4) to approve agreements;
- (5) to modify or change awards;
- (6) to make conclusions of facts and rulings of law;
- (7) to certify questions of law to the court of appeals;
- (8) to approve deductions in compensation made by employers for amounts paid in excess of the amount required by law;
- (9) to approve agreements between an employer and an employee or the employee's dependents for the cash payment of compensation in a lump sum, or, in the case of a person under eighteen (18) years of age, to order cash payments;
- (10) to establish and maintain a list of independent medical examiners and to order physical examinations;
- (11) to subpoena witnesses **and order the production and examination of books, papers, and records;**
- (12) to administer oaths;
- (13) to apply to the circuit or superior court to enforce the attendance and testimony of witnesses and the production and examination of books, papers, and records;
- (14) to create and undertake a program designed to educate and provide assistance to employees and employers regarding the rights and remedies provided by IC 22-3-2 through IC 22-3-7, and to provide for informal resolution of disputes;
- (15) to assess and collect, on the board's own initiative or on the motion of a party, the penalties provided for in IC 22-3-2 through IC 22-3-7; ~~and~~
- (16) **to appoint board ombudsmen to determine issues arising under IC 22-3-2 through IC 22-3-7, subject to the limitations set forth in section 3.1(b) of this chapter; and**
- (17) to exercise all other powers and duties conferred upon the board by law.

SECTION 3. IC 22-3-1-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1 1, 2004]: **Sec. 3.1. (a) A board ombudsman appointed by the**
 2 **worker's compensation board may do the following:**
 3 **(1) Administer an oath or affirmation that is required by law.**
 4 **(2) Order that a subpoena be issued in a matter pending**
 5 **before the board.**
 6 **(3) Verify a certificate for the authentication of records of a**
 7 **proceeding conducted by the board ombudsman.**
 8 **(b) A board ombudsman appointed by the worker's**
 9 **compensation board may do the following:**
 10 **(1) Conduct a prehearing conference or an evidentiary**
 11 **hearing.**
 12 **(2) Determine issues arising under IC 22-3-2 through**
 13 **IC 22-3-7 with the following exceptions:**
 14 **(A) Claims regarding the compensability of an injury or a**
 15 **disease arising out of and in the course of employment**
 16 **under IC 22-3-2-2(a) or IC 22-3-7-2(a).**
 17 **(B) A determination as to whether one (1) of the special**
 18 **defenses contained in IC 22-3-2-8 or IC 22-3-7-21(b)**
 19 **operates as a bar to the employee's claim.**
 20 **(C) A determination as to whether the employee is**
 21 **permanently and totally disabled for purposes of**
 22 **IC 22-3-3-10, IC 22-3-3-13, or IC 22-3-7-16.**
 23 **(D) The approval of settlement agreements under**
 24 **IC 22-3-2-15.**
 25 **(E) Issues involving a lack of diligence, bad faith, or an**
 26 **independent tort under IC 22-3-4-12.1.**
 27 **SECTION 4. IC 22-3-1-3.2 IS ADDED TO THE INDIANA CODE**
 28 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 29 **1, 2004]: Sec. 3.2. A board ombudsman shall report the board**
 30 **ombudsman's findings in an evidentiary hearing to the board. A**
 31 **board member shall enter the final order or award. The final order**
 32 **or award is subject to full board review under IC 22-3-4-7.**
 33 **SECTION 5. IC 22-3-1-4 IS ADDED TO THE INDIANA CODE**
 34 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 35 **1, 2004]: Sec. 4. (a) The worker's compensation board performance**
 36 **evaluation committee is established.**
 37 **(b) The committee consists of five (5) members appointed by the**
 38 **governor as follows:**
 39 **(1) One (1) member who represents organized labor.**
 40 **(2) One (1) member who represents businesses covered by**
 41 **IC 22-3-2 through IC 22-3-7.**
 42 **(3) One (1) member who represents insurers who issue**

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1 insurance policies under IC 22-3-2 through IC 22-3-7.
 2 (4) One (1) member who primarily represents employees
 3 before the board.
 4 (5) One (1) member who primarily represents employers
 5 before the board.
 6 (c) The members of the committee must be Indiana residents.
 7 (d) A member of the committee serves a four (4) year term and
 8 until the member's successor is appointed and qualified. A
 9 committee member may be reappointed.
 10 (e) The governor may remove a committee member at any time
 11 for incompetency, neglect of duty, or unprofessional conduct.
 12 (f) Each committee member is entitled to:
 13 (1) the minimum salary per diem provided by
 14 IC 4-10-11-2.1(b); and
 15 (2) reimbursement of travel expenses and other expenses
 16 actually incurred in connection with the member's duties;
 17 as provided in the state travel policies and procedures established
 18 by the Indiana department of administration and approved by the
 19 budget agency. The amounts described in this subsection must be
 20 paid out of the worker's compensation supplemental
 21 administrative fund established by IC 22-3-5-6.
 22 (g) Three (3) members of the committee constitute a quorum. At
 23 least three (3) votes are necessary for the committee to take official
 24 action.
 25 (h) Each year the committee shall elect a chair who presides at
 26 all meetings at which the chair is present. If the chair is absent
 27 from a committee meeting at which a quorum is present. the
 28 members who are present may elect a presiding officer who serves
 29 until the conclusion of the meeting or the arrival of the chair.
 30 (i) The committee shall:
 31 (1) establish a procedure and guidelines for the review of
 32 board members' performance as required by section (1)(d) of
 33 this chapter; and
 34 (2) annually provide to the governor a report concerning the
 35 reviews conducted.
 36 SECTION 6. IC 22-3-3-4, AS AMENDED BY P.L.31-2000,
 37 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2004]: Sec. 4. (a) After an injury and prior to an adjudication
 39 of permanent impairment, the employer shall furnish or cause to be
 40 furnished, free of charge to the employee, an attending physician for
 41 the treatment of his the employee's injuries, and in addition thereto
 42 such surgical, hospital, and nursing services and supplies as the

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1 attending physician or the worker's compensation board may deem
2 necessary. If the employee is requested or required by the employer to
3 submit to treatment outside the county of employment, the employer
4 shall also pay the reasonable expense of travel, food, and lodging
5 necessary during the travel, but not to exceed the amount paid at the
6 time of the travel by the state to its employees under the state travel
7 policies and procedures established by the **Indiana** department of
8 administration and approved by the ~~state~~ budget agency. If the
9 treatment or travel to or from the place of treatment causes a loss of
10 working time to the employee, the employer shall reimburse the
11 employee for the loss of wages using the basis of the employee's
12 average daily wage.

13 (b) During the period of temporary total disability resulting from the
14 injury, the employer shall furnish the physician services, and supplies,
15 and the worker's compensation board may, on proper application of
16 either party, require that treatment by the physician and services and
17 supplies be furnished by or on behalf of the employer as the worker's
18 compensation board may deem reasonably necessary.

19 (c) **After the employee's medical treatment with an attending
20 physician described in subsection (a) begins, neither the employer
21 nor the employer's insurance carrier has the right to transfer or
22 otherwise redirect an employee's medical treatment to another
23 physician unless:**

- 24 (1) **the employee signs a written informed consent to the**
- 25 **transfer or redirection that acknowledges the employee's**
- 26 **right to refuse the transfer or redirection;**
- 27 (2) **the employee requests the transfer or redirection;**
- 28 (3) **the attending physician requests that:**
 - 29 (A) **the attending physician's treatment of the employee be**
 - 30 **discontinued; or**
 - 31 (B) **the treatment be transferred or redirected to a**
 - 32 **physician practicing a different specialty; or**
 - 33 (4) **the worker's compensation board determines that there is**
 - 34 **good cause for the transfer or redirection.**

35 (d) **If the employer or the employer's insurance carrier desires**
36 **to transfer or redirect the employee's medical treatment under**
37 **subsection (c)(4) for good cause, the employer or the employer's**
38 **insurance carrier shall file a transfer request with the worker's**
39 **compensation board on forms prescribed by the board. A transfer**
40 **may not occur until the worker's compensation board issues an**
41 **order granting the transfer request.**

42 (e) After an employee's injury has been adjudicated by agreement

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1 or award on the basis of permanent partial impairment and within the
 2 statutory period for review in such case as provided in section 27 of
 3 this chapter, the employer may continue to furnish a physician or
 4 surgeon and other medical services and supplies, and the worker's
 5 compensation board may within the statutory period for review as
 6 provided in section 27 of this chapter, on a proper application of either
 7 party, require that treatment by that physician and other medical
 8 services and supplies be furnished by and on behalf of the employer as
 9 the worker's compensation board may deem necessary to limit or
 10 reduce the amount and extent of the employee's impairment. The
 11 refusal of the employee to accept such services and supplies, when
 12 provided by or on behalf of the employer, shall bar the employee from
 13 all compensation otherwise payable during the period of the refusal,
 14 and ~~his~~ **the employee's** right to prosecute any proceeding under
 15 IC 22-3-2 through IC 22-3-6 shall be suspended and abated until the
 16 employee's refusal ceases. The employee must be served with a notice
 17 setting forth the consequences of the refusal under this section. The
 18 notice must be in a form prescribed by the worker's compensation
 19 board. No compensation for permanent total impairment, permanent
 20 partial impairment, permanent disfigurement, or death shall be paid or
 21 payable for that part ~~or portion~~ of the impairment, disfigurement, or
 22 death which is the result of the failure of the employee to accept the
 23 treatment, services, and supplies required under this section. However,
 24 an employer may at any time permit an employee to have treatment for
 25 ~~his~~ **the employee's** injuries by spiritual means or prayer ~~in lieu~~ **instead**
 26 of the physician or surgeon and other medical services and supplies
 27 required under this section.

28 ~~(d)~~ **(f)** If, because of an emergency, or because of the employer's
 29 failure to provide an attending physician or surgical, hospital, or
 30 nursing services and supplies, or treatment by spiritual means or
 31 prayer, as required by this section, or because of any other good reason,
 32 a physician other than that provided by the employer treats the injured
 33 employee during the period of the employee's temporary total
 34 disability, or necessary and proper surgical, hospital, or nursing
 35 services and supplies are procured within the period, the reasonable
 36 cost of those services and supplies shall, subject to the approval of the
 37 worker's compensation board, be paid by the employer.

38 ~~(e)~~ **(g)** Regardless of when it occurs, where a compensable injury
 39 results in the amputation of a body part, the enucleation of an eye, or
 40 the loss of natural teeth, the employer shall furnish an appropriate
 41 artificial member, braces, and prosthodontics. The cost of repairs to or
 42 replacements for the artificial members, braces, or prosthodontics that

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1 result from a compensable injury pursuant to a prior award and are
2 required due to either medical necessity or normal wear and tear,
3 determined according to the employee's individual use, but not abuse,
4 of the artificial member, braces, or prosthodontics, shall be paid from
5 the second injury fund upon order or award of the worker's
6 compensation board. The employee is not required to meet any other
7 requirement for admission to the second injury fund.

8 ~~(f)~~ **(h)** If an accident arising out of and in the course of employment
9 after June 30, 1997, results in the loss of or damage to an artificial
10 member, a brace, an implant, eyeglasses, prosthodontics, or other
11 medically prescribed device, the employer shall repair the artificial
12 member, brace, implant, eyeglasses, prosthodontics, or other medically
13 prescribed device or furnish an identical or a reasonably equivalent
14 replacement.

15 ~~(g)~~ **(i)** This section may not be construed to prohibit an agreement
16 between an employer and the employer's employees that has the
17 approval of the board and that binds the parties to:

- 18 (1) medical care furnished by health care providers selected by
- 19 agreement before or after injury; or
- 20 (2) the findings of a health care provider who was chosen by
- 21 agreement.

22 SECTION 7. IC 22-3-3-7 IS AMENDED TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) Compensation shall be
24 allowed on account of injuries producing only temporary total disability
25 to work or temporary partial disability to work beginning with:

- 26 **(1) the eighth ~~(8th)~~ day of such the disability, for injuries**
- 27 **occurring before July 1, 2004; and**
- 28 **(2) the third day of the disability, for injuries occurring after**
- 29 **June 30, 2004;**

30 except for medical benefits provided in section 4 of the chapter. **For**
31 **injuries occurring before July 1, 2004,** compensation shall be
32 allowed for the first seven (7) calendar days only if the disability
33 continues for longer than twenty-one (21) days. **For injuries occurring**
34 **after June 30, 2004, compensation is allowed for the first three (3)**
35 **calendar days only if the disability continues for at least fourteen**
36 **(14) days.**

37 (b) The first weekly installment of compensation for temporary
38 disability is due fourteen (14) days after the disability begins. Not later
39 than fifteen (15) days from the date that the first installment of
40 compensation is due, the employer or the employer's insurance carrier
41 shall tender to the employee or to the employee's dependents, with all
42 compensation due, a properly prepared compensation agreement in a

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1 form prescribed by the board. Whenever an employer or the employer's
 2 insurance carrier denies or is not able to determine liability to pay
 3 compensation or benefits, the employer or the employer's insurance
 4 carrier shall notify the worker's compensation board and the employee
 5 in writing on a form prescribed by the worker's compensation board not
 6 later than thirty (30) days after the employer's knowledge of the
 7 claimed injury. If a determination of liability cannot be made within
 8 thirty (30) days, the worker's compensation board may approve an
 9 additional thirty (30) days upon a written request of the employer or the
 10 employer's insurance carrier that sets forth the reasons that the
 11 determination could not be made within thirty (30) days and states the
 12 facts or circumstances that are necessary to determine liability within
 13 the additional thirty (30) days. More than thirty (30) days of additional
 14 time may be approved by the worker's compensation board upon the
 15 filing of a petition by the employer or the employer's insurance carrier
 16 that sets forth:

- 17 (1) the extraordinary circumstances that have precluded a
- 18 determination of liability within the initial sixty (60) days;
- 19 (2) the status of the investigation on the date the petition is filed;
- 20 (3) the facts or circumstances that are necessary to make a
- 21 determination; and
- 22 (4) a timetable for the completion of the remaining investigation.

23 ~~An employer who fails to comply with this section is subject to a civil~~
 24 ~~penalty of fifty dollars (\$50), to be assessed and collected by the board~~
 25 ~~upon notice and hearing. Civil penalties collected under this section~~
 26 ~~shall be deposited in the state general fund. An employer that fails to~~
 27 **pay the temporary total disability compensation required by this**
 28 **section shall pay the employee for each day that the amount due**
 29 **the employee remains unpaid a penalty equal to ten percent (10%)**
 30 **of the amount due the employee in addition to the compensation**
 31 **due. The maximum penalty payable under this subsection is twice**
 32 **the unpaid temporary total disability compensation due the**
 33 **employee. The employee may recover the unpaid temporary total**
 34 **disability compensation and the penalty described in this**
 35 **subsection in a suit before the worker's compensation board along**
 36 **with reasonable attorney's fees.**

37 (c) Once begun, temporary total disability benefits may not be
 38 terminated by the employer unless:

- 39 (1) the employee has returned to any employment;
- 40 (2) the employee has died;
- 41 (3) the employee has refused to undergo a medical examination
- 42 under section 6 of this chapter or has refused to accept suitable

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- 1 employment under section 11 of this chapter;
- 2 (4) the employee has received five hundred (500) weeks of
- 3 temporary total disability benefits or has been paid the maximum
- 4 compensation allowed under section 22 of this chapter; ~~or~~
- 5 (5) the employee is unable or unavailable to work for reasons
- 6 unrelated to the compensable injury; **or**
- 7 **(6) the employee returns to work with limitations or**
- 8 **restrictions, and the employer converts temporary total**
- 9 **disability or temporary partial disability compensation into**
- 10 **disabled from trade compensation under section 33 of this**
- 11 **chapter.**

12 In all other cases the employer must notify the employee in writing of
 13 the employer's intent to terminate the payment of temporary total
 14 disability benefits and of the availability of employment, if any, on a
 15 form approved by the board. If the employee disagrees with the
 16 proposed termination, the employee must give written notice of
 17 disagreement to the board and the employer within seven (7) days after
 18 receipt of the notice of intent to terminate benefits. If the board and
 19 employer do not receive a notice of disagreement under this section,
 20 the employee's temporary total disability benefits shall be terminated.
 21 Upon receipt of the notice of disagreement, the board shall immediately
 22 contact the parties, which may be by telephone or other means, and
 23 attempt to resolve the disagreement. If the board is unable to resolve
 24 the disagreement within ten (10) days of receipt of the notice of
 25 disagreement, the board shall immediately arrange for an evaluation of
 26 the employee by an independent medical examiner. The independent
 27 medical examiner shall be selected by mutual agreement of the parties
 28 or, if the parties are unable to agree, appointed by the board under
 29 IC 22-3-4-11. If the independent medical examiner determines that the
 30 employee is no longer temporarily disabled or is still temporarily
 31 disabled but can return to employment that the employer has made
 32 available to the employee, or if the employee fails or refuses to appear
 33 for examination by the independent medical examiner, temporary total
 34 disability benefits may be terminated. If either party disagrees with the
 35 opinion of the independent medical examiner, the party shall apply to
 36 the board for a hearing under IC 22-3-4-5.

- 37 (d) **If an employer desires to have an employee examined by a**
- 38 **physician other than the employee's attending physician (described**
- 39 **in section 4 of this chapter) to determine the employee's:**
- 40 **(1) temporary total disability; or**
- 41 **(2) permanent partial impairment rating;**
- 42 **the employer shall petition the board for the appointment of an**

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1 independent medical examiner under IC 22-3-4-11. The employer
2 shall pay the fees and expenses of the independent medical
3 examination. The independent medical examiner's appointment
4 and determination of the employee's quiescence or level of
5 impairment is in lieu of any other rights provided to the employee
6 under this section.

7 (e) If:

8 (1) the transfer or redirection of an employee's medical
9 treatment occurs;

10 (2) the physician to whom the employee is transferred or
11 redirected is not appointed as an independent medical
12 examiner under subsection (d); and

13 (3) the physician to whom the employee is transferred or
14 redirected issues a determination as to the employee's:

15 (A) temporary total disability; or

16 (B) permanent partial impairment;

17 within sixty (60) days of the date the physician first examines or
18 treats the employee, the physician's determination is not admissible
19 in a proceeding to determine the employee's temporary total
20 disability or permanent partial impairment.

21 (f) An employer is not required to continue the payment of
22 temporary total disability benefits for more than fourteen (14) days
23 after the employer's proposed termination date unless the independent
24 medical examiner determines that the employee is temporarily disabled
25 and unable to return to any employment that the employer has made
26 available to the employee.

27 (g) If it is determined that as a result of this section temporary
28 total disability benefits were overpaid, the overpayment shall be
29 deducted from any benefits due the employee under section 10 of this
30 chapter and, if there are no benefits due the employee or the benefits
31 due the employee do not equal the amount of the overpayment, the
32 employee shall be responsible for paying any overpayment which
33 cannot be deducted from benefits due the employee.

34 SECTION 8. IC 22-3-3-10, AS AMENDED BY P.L.31-2000,
35 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2004]: Sec. 10. (a) With respect to injuries in the following
37 schedule occurring prior to April 1, 1951, the employee shall receive
38 in addition to temporary total disability benefits not exceeding
39 twenty-six (26) weeks on account of the injuries, a weekly
40 compensation of fifty-five percent (55%) of the employee's average
41 weekly wages. With respect to injuries in the following schedule
42 occurring on and after April 1, 1951, and prior to July 1, 1971, the

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1 employee shall receive in addition to temporary total disability benefits
2 not exceeding twenty-six (26) weeks on account of the injuries, a
3 weekly compensation of sixty percent (60%) of the employee's average
4 weekly wages. With respect to injuries in the following schedule
5 occurring on and after July 1, 1971, and before July 1, 1977, the
6 employee shall receive in addition to temporary total disability benefits
7 not exceeding twenty-six (26) weeks on account of the injuries, a
8 weekly compensation of sixty percent (60%) of the employee's average
9 weekly wages not to exceed one hundred dollars (\$100) average weekly
10 wages, for the periods stated for the injuries. With respect to injuries
11 in the following schedule occurring on and after July 1, 1977, and
12 before July 1, 1979, the employee shall receive, in addition to
13 temporary total disability benefits not exceeding twenty-six (26) weeks
14 on account of the injury, a weekly compensation of sixty percent (60%)
15 of his average weekly wages, not to exceed one hundred twenty-five
16 dollars (\$125) average weekly wages, for the period stated for the
17 injury. With respect to injuries in the following schedule occurring on
18 and after July 1, 1979, and before July 1, 1988, the employee shall
19 receive, in addition to temporary total disability benefits not to exceed
20 fifty-two (52) weeks on account of the injury, a weekly compensation
21 of sixty percent (60%) of the employee's average weekly wages, not to
22 exceed one hundred twenty-five dollars (\$125) average weekly wages,
23 for the period stated for the injury.

24 (b) With respect to injuries in the following schedule occurring on
25 and after July 1, 1988, and before July 1, 1989, the employee shall
26 receive, in addition to temporary total disability benefits not exceeding
27 seventy-eight (78) weeks on account of the injury, a weekly
28 compensation of sixty percent (60%) of the employee's average weekly
29 wages, not to exceed one hundred sixty-six dollars (\$166) average
30 weekly wages, for the period stated for the injury.

31 (c) With respect to injuries in the following schedule occurring on
32 and after July 1, 1989, and before July 1, 1990, the employee shall
33 receive, in addition to temporary total disability benefits not exceeding
34 seventy-eight (78) weeks on account of the injury, a weekly
35 compensation of sixty percent (60%) of the employee's average weekly
36 wages, not to exceed one hundred eighty-three dollars (\$183) average
37 weekly wages, for the period stated for the injury.

38 (d) With respect to injuries in the following schedule occurring on
39 and after July 1, 1990, and before July 1, 1991, the employee shall
40 receive, in addition to temporary total disability benefits not exceeding
41 seventy-eight (78) weeks on account of the injury, a weekly
42 compensation of sixty percent (60%) of the employee's average weekly

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1 wages, not to exceed two hundred dollars (\$200) average weekly
2 wages, for the period stated for the injury:

3 (1) Amputation: For the loss by separation of the thumb, sixty
4 (60) weeks, of the index finger forty (40) weeks, of the second
5 finger thirty-five (35) weeks, of the third or ring finger thirty (30)
6 weeks, of the fourth or little finger twenty (20) weeks, of the hand
7 by separation below the elbow joint two hundred (200) weeks, or
8 the arm above the elbow two hundred fifty (250) weeks, of the big
9 toe sixty (60) weeks, of the second toe thirty (30) weeks, of the
10 third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks,
11 of the fifth or little toe ten (10) weeks; ~~and for loss occurring~~
12 ~~before April 1, 1959, by separation of the foot below the knee~~
13 ~~joint one hundred fifty (150) weeks and of the leg above the knee~~
14 ~~joint two hundred (200) weeks;~~ for loss occurring on and after
15 April 1, 1959, by separation of the foot below the knee joint, one
16 hundred seventy-five (175) weeks and of the leg above the knee
17 joint two hundred twenty-five (225) weeks. The loss of more than
18 one (1) phalange of a thumb or toes shall be considered as the loss
19 of the entire thumb or toe. The loss of more than two (2)
20 phalanges of a finger shall be considered as the loss of the entire
21 finger. The loss of not more than one (1) phalange of a thumb or
22 toe shall be considered as the loss of one-half (1/2) of the thumb
23 or toe and compensation shall be paid for one-half (1/2) of the
24 period for the loss of the entire thumb or toe. The loss of not more
25 than one (1) phalange of a finger shall be considered as the loss
26 of one-third (1/3) of the finger and compensation shall be paid for
27 one-third (1/3) the period for the loss of the entire finger. The loss
28 of more than one (1) phalange of the finger but not more than two
29 (2) phalanges of the finger, shall be considered as the loss of
30 one-half (1/2) of the finger and compensation shall be paid for
31 one-half (1/2) of the period for the loss of the entire finger.

32 (2) For the loss by separation of both hands or both feet or the
33 total sight of both eyes, or any two (2) such losses in the same
34 accident, five hundred (500) weeks.

35 (3) For the permanent and complete loss of vision by enucleation
36 or its reduction to one-tenth (1/10) of normal vision with glasses,
37 one hundred seventy-five (175) weeks.

38 (4) For the permanent and complete loss of hearing in one (1) ear,
39 seventy-five (75) weeks, and in both ears, two hundred (200)
40 weeks.

41 (5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of
42 both testicles, one hundred fifty (150) weeks.

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1 (b) With respect to injuries in the following schedule occurring prior
 2 to April 1, 1951, the employee shall receive in lieu of all other
 3 compensation on account of the injuries, a weekly compensation of
 4 fifty-five percent (55%) of the employee's average weekly wages. With
 5 respect to injuries in the following schedule occurring on and after
 6 April 1, 1951, and prior to April 1, 1955, the employee shall receive in
 7 lieu of all other compensation on account of the injuries a weekly
 8 compensation of sixty percent (60%) of the employee's average weekly
 9 wages. With respect to injuries in the following schedule occurring on
 10 and after April 1, 1955, and prior to July 1, 1971, the employee shall
 11 receive in addition to temporary total disability benefits not exceeding
 12 twenty-six (26) weeks on account of the injuries, a weekly
 13 compensation of sixty percent (60%) of the employee's average weekly
 14 wages. With respect to injuries in the following schedule occurring on
 15 and after July 1, 1971, and before July 1, 1977, the employee shall
 16 receive in addition to temporary total disability benefits not exceeding
 17 twenty-six (26) weeks on account of the injuries, a weekly
 18 compensation of sixty percent (60%) of the employee's average weekly
 19 wages, not to exceed one hundred dollars (\$100) average weekly
 20 wages, for the period stated for such injuries respectively. With respect
 21 to injuries in the following schedule occurring on and after July 1,
 22 1977, and before July 1, 1979, the employee shall receive, in addition
 23 to temporary total disability benefits not exceeding twenty-six (26)
 24 weeks on account of the injury, a weekly compensation of sixty percent
 25 (60%) of the employee's average weekly wages not to exceed one
 26 hundred twenty-five dollars (\$125) average weekly wages, for the
 27 period stated for the injury.

28 (e) With respect to injuries in the following schedule occurring on
 29 and after July 1, 1979, and before July 1, 1988, the employee shall
 30 receive, in addition to temporary total disability benefits not exceeding
 31 fifty-two (52) weeks on account of the injury, a weekly compensation
 32 of sixty percent (60%) of the employee's average weekly wages not to
 33 exceed one hundred twenty-five dollars (\$125) average weekly wages
 34 for the period stated for the injury.

35 (f) With respect to injuries in the following schedule occurring on
 36 and after July 1, 1988, and before July 1, 1989, the employee shall
 37 receive, in addition to temporary total disability benefits not exceeding
 38 seventy-eight (78) weeks on account of the injury, a weekly
 39 compensation of sixty percent (60%) of the employee's average weekly
 40 wages, not to exceed one hundred sixty-six dollars (\$166) average
 41 weekly wages, for the period stated for the injury.

42 (g) With respect to injuries in the following schedule occurring on

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1 and after July 1, 1989, and before July 1, 1990, the employee shall
2 receive, in addition to temporary total disability benefits not exceeding
3 seventy-eight (78) weeks on account of the injury, a weekly
4 compensation of sixty percent (60%) of the employee's average weekly
5 wages, not to exceed one hundred eighty-three dollars (\$183) average
6 weekly wages, for the period stated for the injury.

7 (h) With respect to injuries in the following schedule occurring on
8 and after July 1, 1990, and before July 1, 1991, the employee shall
9 receive, in addition to temporary total disability benefits not exceeding
10 seventy-eight (78) weeks on account of the injury, a weekly
11 compensation of sixty percent (60%) of the employee's average weekly
12 wages, not to exceed two hundred dollars (\$200) average weekly
13 wages, for the period stated for the injury.

14 (1) Loss of use: The total permanent loss of the use of an arm,
15 hand, thumb, finger, leg, foot, toe, or phalange shall be considered
16 as the equivalent of the loss by separation of the arm, hand,
17 thumb, finger, leg, foot, toe, or phalange, and compensation shall
18 be paid for the same period as for the loss thereof by separation.

19 (2) Partial loss of use: For the permanent partial loss of the use of
20 an arm, hand, thumb, finger, leg, foot, toe, or phalange,
21 compensation shall be paid for the proportionate loss of the use of
22 such arm, hand, thumb, finger, leg, foot, toe, or phalange.

23 (3) For injuries resulting in total permanent disability, five
24 hundred (500) weeks.

25 (4) For any permanent reduction of the sight of an eye less than a
26 total loss as specified in subsection (a)(3), compensation shall be
27 paid for a period proportionate to the degree of such permanent
28 reduction without correction or glasses. However, when such
29 permanent reduction without correction or glasses would result in
30 one hundred percent (100%) loss of vision, but correction or
31 glasses would result in restoration of vision, then in such event
32 compensation shall be paid for fifty percent (50%) of such total
33 loss of vision without glasses, plus an additional amount equal to
34 the proportionate amount of such reduction with glasses, not to
35 exceed an additional fifty percent (50%).

36 (5) For any permanent reduction of the hearing of one (1) or both
37 ears, less than the total loss as specified in subsection (a)(4),
38 compensation shall be paid for a period proportional to the degree
39 of such permanent reduction.

40 (6) In all other cases of permanent partial impairment,
41 compensation proportionate to the degree of such permanent
42 partial impairment, in the discretion of the worker's compensation

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1 board, not exceeding five hundred (500) weeks.
 2 (7) In all cases of permanent disfigurement which may impair the
 3 future usefulness or opportunities of the employee, compensation,
 4 in the discretion of the worker's compensation board, not
 5 exceeding two hundred (200) weeks, except that no compensation
 6 shall be payable under this subdivision where compensation is
 7 payable elsewhere in this section.

8 ~~(e)~~ (i) With respect to injuries in the following schedule occurring
 9 on and after July 1, 1991, the employee shall receive in addition to
 10 temporary total disability benefits, not exceeding one hundred
 11 twenty-five (125) weeks on account of the injury, compensation in an
 12 amount determined under the following schedule to be paid weekly at
 13 a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's
 14 average weekly wages during the fifty-two (52) weeks immediately
 15 preceding the week in which the injury occurred.

16 (1) Amputation: For the loss by separation of the thumb, twelve
 17 (12) degrees of permanent impairment; of the index finger, eight
 18 (8) degrees of permanent impairment; of the second finger, seven
 19 (7) degrees of permanent impairment; of the third or ring finger,
 20 six (6) degrees of permanent impairment; of the fourth or little
 21 finger, four (4) degrees of permanent impairment; of the hand by
 22 separation below the elbow joint, forty (40) degrees of permanent
 23 impairment; of the arm above the elbow, fifty (50) degrees of
 24 permanent impairment; of the big toe, twelve (12) degrees of
 25 permanent impairment; of the second toe, six (6) degrees of
 26 permanent impairment; of the third toe, four (4) degrees of
 27 permanent impairment; of the fourth toe, three (3) degrees of
 28 permanent impairment; of the fifth or little toe, two (2) degrees of
 29 permanent impairment; by separation of the foot below the knee
 30 joint, thirty-five (35) degrees of permanent impairment; and of the
 31 leg above the knee joint, forty-five (45) degrees of permanent
 32 impairment.

33 (2) Amputations: For the loss by separation of any of the body
 34 parts described in subdivision (1) on or after July 1, 1997, and for
 35 the loss by separation of any of the body parts described in
 36 subdivision (3), (5), or (8), on or after July 1, 1999, the dollar
 37 values per degree applying on the date of the injury as described
 38 in subsection ~~(d)~~ (j) shall be multiplied by two (2). However, the
 39 doubling provision of this subdivision does not apply to a loss of
 40 use that is not a loss by separation.

41 (3) The loss of more than one (1) phalange of a thumb or toe shall
 42 be considered as the loss of the entire thumb or toe. The loss of

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1 more than two (2) phalanges of a finger shall be considered as the
 2 loss of the entire finger. The loss of not more than one (1)
 3 phalange of a thumb or toe shall be considered as the loss of
 4 one-half (1/2) of the degrees of permanent impairment for the loss
 5 of the entire thumb or toe. The loss of not more than one (1)
 6 phalange of a finger shall be considered as the loss of one-third
 7 (1/3) of the finger and compensation shall be paid for one-third
 8 (1/3) of the degrees payable for the loss of the entire finger. The
 9 loss of more than one (1) phalange of the finger but not more than
 10 two (2) phalanges of the finger shall be considered as the loss of
 11 one-half (1/2) of the finger and compensation shall be paid for
 12 one-half (1/2) of the degrees payable for the loss of the entire
 13 finger.

14 (4) For the loss by separation of both hands or both feet or the
 15 total sight of both eyes or any two (2) such losses in the same
 16 accident, one hundred (100) degrees of permanent impairment.

17 (5) For the permanent and complete loss of vision by enucleation,
 18 thirty-five (35) degrees of permanent impairment.

19 (6) For the reduction of vision to one-tenth (1/10) of normal
 20 vision with glasses, thirty-five (35) degrees of permanent
 21 impairment.

22 (7) For the permanent and complete loss of hearing in one (1) ear,
 23 fifteen (15) degrees of permanent impairment, and in both ears,
 24 forty (40) degrees of permanent impairment.

25 (8) For the loss of one (1) testicle, ten (10) degrees of permanent
 26 impairment; for the loss of both testicles, thirty (30) degrees of
 27 permanent impairment.

28 (9) Loss of use: The total permanent loss of the use of an arm, a
 29 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be
 30 considered as the equivalent of the loss by separation of the arm,
 31 hand, thumb, finger, leg, foot, toe, or phalange, and compensation
 32 shall be paid in the same amount as for the loss by separation.
 33 However, the doubling provision of subdivision (2) does not
 34 apply to a loss of use that is not a loss by separation.

35 (10) Partial loss of use: For the permanent partial loss of the use
 36 of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a
 37 phalange, compensation shall be paid for the proportionate loss of
 38 the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

39 (11) For injuries resulting in total permanent disability, the
 40 amount payable for impairment or five hundred (500) weeks of
 41 compensation, whichever is greater.

42 (12) For any permanent reduction of the sight of an eye less than

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1 a total loss as specified in subsection (a)(3), the compensation
2 shall be paid in an amount proportionate to the degree of a
3 permanent reduction without correction or glasses. However,
4 when a permanent reduction without correction or glasses would
5 result in one hundred percent (100%) loss of vision, then
6 compensation shall be paid for fifty percent (50%) of the total loss
7 of vision without glasses, plus an additional amount equal to the
8 proportionate amount of the reduction with glasses, not to exceed
9 an additional fifty percent (50%).

10 (13) For any permanent reduction of the hearing of one (1) or both
11 ears, less than the total loss as specified in subsection (a)(4),
12 compensation shall be paid in an amount proportionate to the
13 degree of a permanent reduction.

14 (14) In all other cases of permanent partial impairment,
15 compensation proportionate to the degree of a permanent partial
16 impairment, in the discretion of the worker's compensation board,
17 not exceeding one hundred (100) degrees of permanent
18 impairment.

19 (15) In all cases of permanent disfigurement which may impair
20 the future usefulness or opportunities of the employee,
21 compensation, in the discretion of the worker's compensation
22 board, not exceeding forty (40) degrees of permanent impairment
23 except that no compensation shall be payable under this
24 subdivision where compensation is payable elsewhere in this
25 section.

26 ~~(d)~~ (j) Compensation for permanent partial impairment shall be paid
27 according to the degree of permanent impairment for the injury
28 determined under subsection ~~(e)~~ (i) and the following:

29 (1) With respect to injuries occurring on and after July 1, 1991,
30 and before July 1, 1992, for each degree of permanent impairment
31 from one (1) to thirty-five (35), five hundred dollars (\$500) per
32 degree; for each degree of permanent impairment from thirty-six
33 (36) to fifty (50), nine hundred dollars (\$900) per degree; for each
34 degree of permanent impairment above fifty (50), one thousand
35 five hundred dollars (\$1,500) per degree.

36 (2) With respect to injuries occurring on and after July 1, 1992,
37 and before July 1, 1993, for each degree of permanent impairment
38 from one (1) to twenty (20), five hundred dollars (\$500) per
39 degree; for each degree of permanent impairment from
40 twenty-one (21) to thirty-five (35), eight hundred dollars (\$800)
41 per degree; for each degree of permanent impairment from
42 thirty-six (36) to fifty (50), one thousand three hundred dollars

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1 (\$1,300) per degree; for each degree of permanent impairment
 2 above fifty (50), one thousand seven hundred dollars (\$1,700) per
 3 degree.
 4 (3) With respect to injuries occurring on and after July 1, 1993,
 5 and before July 1, 1997, for each degree of permanent impairment
 6 from one (1) to ten (10), five hundred dollars (\$500) per degree;
 7 for each degree of permanent impairment from eleven (11) to
 8 twenty (20), seven hundred dollars (\$700) per degree; for each
 9 degree of permanent impairment from twenty-one (21) to
 10 thirty-five (35), one thousand dollars (\$1,000) per degree; for
 11 each degree of permanent impairment from thirty-six (36) to fifty
 12 (50), one thousand four hundred dollars (\$1,400) per degree; for
 13 each degree of permanent impairment above fifty (50), one
 14 thousand seven hundred dollars (\$1,700) per degree.
 15 (4) With respect to injuries occurring on and after July 1, 1997,
 16 and before July 1, 1998, for each degree of permanent impairment
 17 from one (1) to ten (10), seven hundred fifty dollars (\$750) per
 18 degree; for each degree of permanent impairment from eleven
 19 (11) to thirty-five (35), one thousand dollars (\$1,000) per degree;
 20 for each degree of permanent impairment from thirty-six (36) to
 21 fifty (50), one thousand four hundred dollars (\$1,400) per degree;
 22 for each degree of permanent impairment above fifty (50), one
 23 thousand seven hundred dollars (\$1,700) per degree.
 24 (5) With respect to injuries occurring on and after July 1, 1998,
 25 and before July 1, 1999, for each degree of permanent impairment
 26 from one (1) to ten (10), seven hundred fifty dollars (\$750) per
 27 degree; for each degree of permanent impairment from eleven
 28 (11) to thirty-five (35), one thousand dollars (\$1,000) per degree;
 29 for each degree of permanent impairment from thirty-six (36) to
 30 fifty (50), one thousand four hundred dollars (\$1,400) per degree;
 31 for each degree of permanent impairment above fifty (50), one
 32 thousand seven hundred dollars (\$1,700) per degree.
 33 (6) With respect to injuries occurring on and after July 1, 1999,
 34 and before July 1, 2000, for each degree of permanent impairment
 35 from one (1) to ten (10), nine hundred dollars (\$900) per degree;
 36 for each degree of permanent impairment from eleven (11) to
 37 thirty-five (35), one thousand one hundred dollars (\$1,100) per
 38 degree; for each degree of permanent impairment from thirty-six
 39 (36) to fifty (50), one thousand six hundred dollars (\$1,600) per
 40 degree; for each degree of permanent impairment above fifty (50),
 41 two thousand dollars (\$2,000) per degree.
 42 (7) With respect to injuries occurring on and after July 1, 2000,

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- 1 and before July 1, 2001, for each degree of permanent impairment
2 from one (1) to ten (10), one thousand one hundred dollars
3 (\$1,100) per degree; for each degree of permanent impairment
4 from eleven (11) to thirty-five (35), one thousand three hundred
5 dollars (\$1,300) per degree; for each degree of permanent
6 impairment from thirty-six (36) to fifty (50), two thousand dollars
7 (\$2,000) per degree; for each degree of permanent impairment
8 above fifty (50), two thousand five hundred fifty dollars (\$2,500)
9 per degree.
- 10 (8) With respect to injuries occurring on and after July 1, 2001,
11 **and before July 1, 2004**, for each degree of permanent
12 impairment from one (1) to ten (10), one thousand three hundred
13 dollars (\$1,300) per degree; for each degree of permanent
14 impairment from eleven (11) to thirty-five (35), one thousand five
15 hundred dollars (\$1,500) per degree; for each degree of
16 permanent impairment from thirty-six (36) to fifty (50), two
17 thousand four hundred dollars (\$2,400) per degree; for each
18 degree of permanent impairment above fifty (50), three thousand
19 dollars (\$3,000) per degree.
- 20 (9) **With respect to injuries occurring on and after July 1,**
21 **2004, and before July 1, 2005**, for each degree of permanent
22 **impairment from one (1) to ten (10), one thousand nine**
23 **hundred dollars (\$1,900) per degree; for each degree of**
24 **permanent impairment from eleven (11) to thirty-five (35),**
25 **two thousand one hundred dollars (\$2,100) per degree; for**
26 **each degree of permanent impairment from thirty-six (36) to**
27 **fifty (50), three thousand six hundred dollars (\$3,600) per**
28 **degree; for each degree of permanent impairment above fifty**
29 **(50), four thousand five hundred dollars (\$4,500) per degree.**
- 30 (10) With respect to injuries occurring on and after July 1,
31 2005, and before July 1, 2006, for each degree of permanent
32 impairment from one (1) to ten (10), two thousand one
33 hundred dollars (\$2,100) per degree; for each degree of
34 permanent impairment from eleven (11) to thirty-five (35),
35 two thousand three hundred dollars (\$2,300) per degree; for
36 each degree of permanent impairment from thirty-six (36) to
37 fifty (50), four thousand dollars (\$4,000) per degree; for each
38 degree of permanent impairment above fifty (50), five
39 thousand dollars (\$5,000) per degree.
- 40 (11) With respect to injuries occurring on and after July 1,
41 2006, for each degree of permanent impairment from one (1)
42 to ten (10), two thousand three hundred dollars (\$2,300) per

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1 degree; for each degree of permanent impairment from eleven
 2 (11) to thirty-five (35), two thousand five hundred dollars
 3 (\$2,500) per degree; for each degree of permanent
 4 impairment from thirty-six (36) to fifty (50), four thousand
 5 four hundred dollars (\$4,400) per degree; for each degree of
 6 permanent impairment above fifty (50), five thousand five
 7 hundred dollars (\$5,500) per degree.

8 ~~(e)~~ (k) The average weekly wages used in the determination of
 9 compensation for permanent partial impairment under subsections ~~(e)~~
 10 (i) and ~~(d)~~ (j) shall not exceed the following:

11 (1) With respect to injuries occurring on or after July 1, 1991, and
 12 before July 1, 1992, four hundred ninety-two dollars (\$492).

13 (2) With respect to injuries occurring on or after July 1, 1992, and
 14 before July 1, 1993, five hundred forty dollars (\$540).

15 (3) With respect to injuries occurring on or after July 1, 1993, and
 16 before July 1, 1994, five hundred ninety-one dollars (\$591).

17 (4) With respect to injuries occurring on or after July 1, 1994, and
 18 before July 1, 1997, six hundred forty-two dollars (\$642).

19 (5) With respect to injuries occurring on or after July 1, 1997, and
 20 before July 1, 1998, six hundred seventy-two dollars (\$672).

21 (6) With respect to injuries occurring on or after July 1, 1998, and
 22 before July 1, 1999, seven hundred two dollars (\$702).

23 (7) With respect to injuries occurring on or after July 1, 1999, and
 24 before July 1, 2000, seven hundred thirty-two dollars (\$732).

25 (8) With respect to injuries occurring on or after July 1, 2000, and
 26 before July 1, 2001, seven hundred sixty-two dollars (\$762).

27 (9) With respect to injuries occurring on or after July 1, 2001, and
 28 before July 1, 2002, eight hundred twenty-two dollars (\$822).

29 (10) With respect to injuries occurring on or after July 1, 2002,
 30 **and before July 1, 2004, eight hundred eighty-two dollars**
 31 (\$882).

32 **(11) With respect to injuries occurring on or after July 1,**
 33 **2004, and before July 1, 2005, one thousand two dollars**
 34 **(\$1,002).**

35 **(12) With respect to injuries occurring on or after July 1,**
 36 **2005, and before July 1, 2006, one thousand sixty-two dollars**
 37 **(\$1,062).**

38 **(13) With respect to injuries occurring on or after July 1,**
 39 **2006, one thousand one hundred twenty-two dollars (\$1,122).**

40 SECTION 9. IC 22-3-3-13, AS AMENDED BY P.L.178-2003,
 41 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2004]: Sec. 13. ~~(a)~~ As used in this section, "board" refers to

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1 the worker's compensation board created under IC 22-3-1-1.

2 (b) If an employee who from any cause, had lost, or lost the use of;
3 one (1) hand; one (1) arm; one (1) foot; one (1) leg; or one (1) eye; and
4 in a subsequent industrial accident becomes permanently and totally
5 disabled by reason of the loss; or loss of use of; another such member
6 or eye; the employer shall be liable only for the compensation payable
7 for such second injury. However, in addition to such compensation and
8 after the completion of the payment therefor, the employee shall be
9 paid the remainder of the compensation that would be due for such
10 total permanent disability out of a special fund known as the second
11 injury fund; and created in the manner described in subsection (c).

12 (c) Whenever the board determines under the procedures set forth
13 in subsection (d) that an assessment is necessary to ensure that fund
14 beneficiaries, including applicants under section 4(e) of this chapter,
15 continue to receive compensation in a timely manner for a reasonable
16 prospective period; the board shall send notice not later than October
17 † in any year to:

18 (1) all insurance carriers and other entities insuring or providing
19 coverage to employers who are or may be liable under this article
20 to pay compensation for personal injuries to or the death of their
21 employees under this article; and

22 (2) each employer carrying the employer's own risk;
23 stating that an assessment is necessary. After June 30, 1999, the board
24 may conduct an assessment under this subsection not more than one (1)
25 time annually. Every insurance carrier and other entity insuring or
26 providing coverage to employers who are or may be liable under this
27 article to pay compensation for personal injuries to or death of their
28 employees under this article and every employer carrying the
29 employer's own risk; shall, within thirty (30) days of the board sending
30 notice under this subsection; pay to the worker's compensation board
31 for the benefit of the fund an assessed amount that may not exceed two
32 and one-half percent (2.5%) of the total amount of all worker's
33 compensation paid to injured employees or their beneficiaries under
34 IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the
35 due date of such payment. For the purposes of calculating the
36 assessment under this subsection, the board may consider payments for
37 temporary total disability; temporary partial disability; permanent total
38 impairment; permanent partial impairment; or death of an employee.
39 The board may not consider payments for medical benefits in
40 calculating an assessment under this subsection. If the amount to the
41 credit of the second injury fund on or before October † of any year
42 exceeds one million dollars (\$1,000,000), the assessment allowed

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1 under this subsection shall not be assessed or collected during the
 2 ensuing year. But when on or before October 1 of any year the amount
 3 to the credit of the fund is less than one million dollars (\$1,000,000);
 4 the payments of not more than two and one-half percent (2.5%) of the
 5 total amount of all worker's compensation paid to injured employees or
 6 their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar
 7 year next preceding that date shall be resumed and paid into the fund.
 8 The board may not use an assessment rate greater than twenty-five
 9 hundredths of one percent (0.25%) above the amount recommended by
 10 the study performed before the assessment.

11 (d) The board shall enter into a contract with an actuary or another
 12 qualified firm that has experience in calculating worker's compensation
 13 liabilities. Not later than September 1 of each year, the actuary or other
 14 qualified firm shall calculate the recommended funding level of the
 15 fund based on the previous year's claims and inform the board of the
 16 results of the calculation. If the amount to the credit of the fund is less
 17 than the amount required under subsection (c), the board may conduct
 18 an assessment under subsection (c). The board shall pay the costs of the
 19 contract under this subsection with money in the fund.

20 (e) An assessment collected under subsection (c) on an employer
 21 who is not self-insured must be assessed through a surcharge based on
 22 the employer's premium. An assessment collected under subsection (c)
 23 does not constitute an element of loss, but for the purpose of collection
 24 shall be treated as a separate cost imposed upon insured employers. A
 25 premium surcharge under this subsection must be collected at the same
 26 time and in the same manner in which the premium for coverage is
 27 collected, and must be shown as a separate amount on a premium
 28 statement. A premium surcharge under this subsection must be
 29 excluded from the definition of premium for all purposes, including the
 30 computation of insurance producer commissions or premium taxes.
 31 However, an insurer may cancel a worker's compensation policy for
 32 nonpayment of the premium surcharge. A cancellation under this
 33 subsection must be carried out under the statutes applicable to the
 34 nonpayment of premiums.

35 (f) The sums shall be paid by the board to the treasurer of state, to
 36 be deposited in a special account known as the second injury fund. The
 37 funds are not a part of the general fund of the state. Any balance
 38 remaining in the account at the end of any fiscal year shall not revert
 39 to the general fund. The funds shall be used only for the payment of
 40 awards of compensation and expense of medical examinations or
 41 treatment made and ordered by the board and chargeable against the
 42 fund pursuant to this section, and shall be paid for that purpose by the

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1 ~~treasurer of state upon award or order of the board:~~

2 ~~(g)~~ (a) If an employee who is entitled to compensation under
3 IC 22-3-2 through IC 22-3-6 either:

4 (1) exhausts the maximum benefits under section 22 of this
5 chapter without having received the full amount of award granted
6 to the employee under section 10 of this chapter; or

7 (2) exhausts the employee's benefits under section 10 of this
8 chapter;

9 then such employee may apply to the board, who may award the
10 employee compensation from the second injury fund established by ~~this~~
11 ~~section, IC 22-3-4-15~~, as follows under subsection ~~(h)~~: (b).

12 ~~(h)~~ (b) An employee who has exhausted the employee's maximum
13 benefits under section 10 of this chapter may be awarded additional
14 compensation equal to sixty-six and two-thirds percent (66 2/3%) of the
15 employee's average weekly wage at the time of the employee's injury,
16 not to exceed the maximum then applicable under section 22 of this
17 chapter, for a period of not to exceed one hundred fifty (150) weeks
18 upon competent evidence sufficient to establish:

19 (1) that the employee is totally and permanently disabled from
20 causes and conditions of which there are or have been objective
21 conditions and symptoms proven that are not within the physical
22 or mental control of the employee; and

23 (2) that the employee is unable to support the employee in any
24 gainful employment, not associated with rehabilitative or
25 vocational therapy.

26 ~~(i)~~ (c) The additional award may be renewed during the employee's
27 total and permanent disability after appropriate hearings by the board
28 for successive periods not to exceed one hundred fifty (150) weeks
29 each. The provisions of this section apply only to injuries occurring
30 subsequent to April 1, 1950, for which awards have been or are in the
31 future made by the board under section 10 of this chapter. Section 16
32 of this chapter does not apply to compensation awarded from the
33 second injury fund under this section.

34 ~~(j)~~ All insurance carriers subject to an assessment under this section
35 are required to provide to the board:

36 (1) not later than January 31 each calendar year; and

37 (2) not later than thirty (30) days after a change occurs;

38 the name, address, and electronic mail address of a representative
39 authorized to receive the notice of an assessment:

40 SECTION 10. IC 22-3-3-21 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 21. In all cases of the
42 death of an employee from an injury by an accident arising out of and

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1 in the course of the employee's employment under such circumstances
 2 that the employee would have been entitled to compensation if death
 3 had not resulted, the employer shall pay the burial expenses of such
 4 employee, not exceeding six **eight** thousand **five hundred** dollars
 5 (~~\$6,000~~): **(\$8,500)**.

6 SECTION 11. IC 22-3-3-22, AS AMENDED BY P.L.31-2000,
 7 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2004]: Sec. 22. (a) In computing the compensation under this
 9 law with respect to injuries occurring on and after April 1, 1963, and
 10 prior to April 1, 1965, the average weekly wages shall be considered
 11 to be not more than seventy dollars (\$70) nor less than thirty dollars
 12 (\$30). In computing the compensation under this law with respect to
 13 injuries occurring on and after April 1, 1965, and prior to April 1,
 14 1967, the average weekly wages shall be considered to be not more
 15 than seventy-five dollars (\$75) and not less than thirty dollars (\$30). In
 16 computing the compensation under this law with respect to injuries
 17 occurring on and after April 1, 1967, and prior to April 1, 1969, the
 18 average weekly wages shall be considered to be not more than
 19 eighty-five dollars (\$85) and not less than thirty-five dollars (\$35). In
 20 computing the compensation under this law with respect to injuries
 21 occurring on and after April 1, 1969, and prior to July 1, 1971, the
 22 average weekly wages shall be considered to be not more than
 23 ninety-five dollars (\$95) and not less than thirty-five dollars (\$35). In
 24 computing the compensation under this law with respect to injuries
 25 occurring on and after July 1, 1971, and prior to July 1, 1974, the
 26 average weekly wages shall be considered to be: (A) Not more than: (1)
 27 one hundred dollars (\$100) if no dependents; (2) one hundred five
 28 dollars (\$105) if one (1) dependent; (3) one hundred ten dollars (\$110)
 29 if two (2) dependents; (4) one hundred fifteen dollars (\$115) if three
 30 (3) dependents; (5) one hundred twenty dollars (\$120) if four (4)
 31 dependents; and (6) one hundred twenty-five dollars (\$125) if five (5)
 32 or more dependents; and (B) Not less than thirty-five dollars (\$35). In
 33 computing compensation for temporary total disability, temporary
 34 partial disability, and total permanent disability under this law with
 35 respect to injuries occurring on and after July 1, 1974, and before July
 36 1, 1976, the average weekly wages shall be considered to be (A) not
 37 more than one hundred thirty-five dollars (\$135); and (B) not less than
 38 seventy-five dollars (\$75). However, the weekly compensation payable
 39 shall in no case exceed the average weekly wages of the employee at
 40 the time of the injury. In computing compensation for temporary total
 41 disability, temporary partial disability and total permanent disability
 42 under this law with respect to injuries occurring on and after July 1,

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1 1976, and before July 1, 1977, the average weekly wages shall be
2 considered to be (1) not more than one hundred fifty-six dollars (\$156)
3 and (2) not less than seventy-five dollars (\$75). However, the weekly
4 compensation payable shall not exceed the average weekly wages of
5 the employee at the time of the injury. In computing compensation for
6 temporary total disability, temporary partial disability, and total
7 permanent disability, with respect to injuries occurring on and after
8 July 1, 1977, and before July 1, 1979, the average weekly wages are
9 considered to be (1) not more than one hundred eighty dollars (\$180);
10 and (2) not less than seventy-five dollars (\$75). However, the weekly
11 compensation payable may not exceed the average weekly wages of the
12 employee at the time of the injury. In computing compensation for
13 temporary total disability, temporary partial disability, and total
14 permanent disability, with respect to injuries occurring on and after
15 July 1, 1979, and before July 1, 1980, the average weekly wages are
16 considered to be (1) not more than one hundred ninety-five dollars
17 (\$195); and (2) not less than seventy-five dollars (\$75). However, the
18 weekly compensation payable shall not exceed the average weekly
19 wages of the employee at the time of the injury. In computing
20 compensation for temporary total disability, temporary partial
21 disability, and total permanent disability, with respect to injuries
22 occurring on and after July 1, 1980, and before July 1, 1983, the
23 average weekly wages are considered to be (1) not more than two
24 hundred ten dollars (\$210); and (2) not less than seventy-five dollars
25 (\$75). However, the weekly compensation payable shall not exceed the
26 average weekly wages of the employee at the time of the injury. In
27 computing compensation for temporary total disability, temporary
28 partial disability, and total permanent disability, with respect to injuries
29 occurring on and after July 1, 1983, and before July 1, 1984, the
30 average weekly wages are considered to be (1) not more than two
31 hundred thirty-four dollars (\$234) and (2) not less than seventy-five
32 dollars (\$75). However, the weekly compensation payable shall not
33 exceed the average weekly wages of the employee at the time of the
34 injury. In computing compensation for temporary total disability,
35 temporary partial disability, and total permanent disability, with respect
36 to injuries occurring on and after July 1, 1984, and before July 1, 1985,
37 the average weekly wages are considered to be (1) not more than two
38 hundred forty-nine dollars (\$249) and (2) not less than seventy-five
39 dollars (\$75). However, the weekly compensation payable shall not
40 exceed the average weekly wages of the employee at the time of the
41 injury.

42 (a) In computing compensation for temporary total disability,



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1 temporary partial disability, and total permanent disability, with respect
 2 to injuries occurring on and after July 1, 1985, and before July 1, 1986,
 3 the average weekly wages are considered to be:

- 4 (1) not more than two hundred sixty-seven dollars (\$267); and
 5 (2) not less than seventy-five dollars (\$75). However, the weekly
 6 compensation payable shall not exceed the average weekly wages
 7 of the employee at the time of the injury.

8 **(b)** In computing compensation for temporary total disability,
 9 temporary partial disability, and total permanent disability, with respect
 10 to injuries occurring on and after July 1, 1986, and before July 1, 1988,
 11 the average weekly wages are considered to be:

- 12 (1) not more than two hundred eighty-five dollars (\$285); and
 13 (2) not less than seventy-five dollars (\$75).

14 However, the weekly compensation payable shall not exceed the
 15 average weekly wages of the employee at the time of the injury.

16 **(c)** In computing compensation for temporary total disability,
 17 temporary partial disability, and total permanent disability, with respect
 18 to injuries occurring on and after July 1, 1988, and before July 1, 1989,
 19 the average weekly wages are considered to be:

- 20 (1) not more than three hundred eighty-four dollars (\$384); and
 21 (2) not less than seventy-five dollars (\$75).

22 However, the weekly compensation payable shall not exceed the
 23 average weekly wages of the employee at the time of the injury.

24 **(d)** In computing compensation for temporary total disability,
 25 temporary partial disability, and total permanent disability, with respect
 26 to injuries occurring on and after July 1, 1989, and before July 1, 1990,
 27 the average weekly wages are considered to be:

- 28 (1) not more than four hundred eleven dollars (\$411); and
 29 (2) not less than seventy-five dollars (\$75).

30 However, the weekly compensation payable shall not exceed the
 31 average weekly wages of the employee at the time of the injury.

32 **(e)** In computing compensation for temporary total disability,
 33 temporary partial disability, and total permanent disability, with respect
 34 to injuries occurring on and after July 1, 1990, and before July 1, 1991,
 35 the average weekly wages are considered to be:

- 36 (1) not more than four hundred forty-one dollars (\$441); and
 37 (2) not less than seventy-five dollars (\$75).

38 However, the weekly compensation payable shall not exceed the
 39 average weekly wages of the employee at the time of the injury.

40 **(f)** In computing compensation for temporary total disability,
 41 temporary partial disability, and total permanent disability, with respect
 42 to injuries occurring on and after July 1, 1991, and before July 1, 1992,

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1 the average weekly wages are considered to be:
 2 (1) not more than four hundred ninety-two dollars (\$492); and
 3 (2) not less than seventy-five dollars (\$75).
 4 However, the weekly compensation payable shall not exceed the
 5 average weekly wages of the employee at the time of the injury.
 6 (g) In computing compensation for temporary total disability,
 7 temporary partial disability, and total permanent disability, with respect
 8 to injuries occurring on and after July 1, 1992, and before July 1, 1993,
 9 the average weekly wages are considered to be:
 10 (1) not more than five hundred forty dollars (\$540); and
 11 (2) not less than seventy-five dollars (\$75).
 12 However, the weekly compensation payable shall not exceed the
 13 average weekly wages of the employee at the time of the injury.
 14 (h) In computing compensation for temporary total disability,
 15 temporary partial disability, and total permanent disability, with respect
 16 to injuries occurring on and after July 1, 1993, and before July 1, 1994,
 17 the average weekly wages are considered to be:
 18 (1) not more than five hundred ninety-one dollars (\$591); and
 19 (2) not less than seventy-five dollars (\$75).
 20 However, the weekly compensation payable shall not exceed the
 21 average weekly wages of the employee at the time of the injury.
 22 (i) In computing compensation for temporary total disability,
 23 temporary partial disability, and total permanent disability, with respect
 24 to injuries occurring on and after July 1, 1994, and before July 1, 1997,
 25 the average weekly wages are considered to be:
 26 (1) not more than six hundred forty-two dollars (\$642); and
 27 (2) not less than seventy-five dollars (\$75).
 28 However, the weekly compensation payable shall not exceed the
 29 average weekly wages of the employee at the time of the injury.
 30 (b) (j) In computing compensation for temporary total disability,
 31 temporary partial disability, and total permanent disability, the average
 32 weekly wages are considered to be:
 33 (1) with respect to injuries occurring on and after July 1, 1997,
 34 and before July 1, 1998:
 35 (A) not more than six hundred seventy-two dollars (\$672); and
 36 (B) not less than seventy-five dollars (\$75);
 37 (2) with respect to injuries occurring on and after July 1, 1998,
 38 and before July 1, 1999:
 39 (A) not more than seven hundred two dollars (\$702); and
 40 (B) not less than seventy-five dollars (\$75);
 41 (3) with respect to injuries occurring on and after July 1, 1999,
 42 and before July 1, 2000:

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- 1 (A) not more than seven hundred thirty-two dollars (\$732);
 2 and
 3 (B) not less than seventy-five dollars (\$75);
 4 (4) with respect to injuries occurring on and after July 1, 2000,
 5 and before July 1, 2001:
 6 (A) not more than seven hundred sixty-two dollars (\$762); and
 7 (B) not less than seventy-five dollars (\$75);
 8 (5) with respect to injuries occurring on and after July 1, 2001,
 9 and before July 1, 2002:
 10 (A) not more than eight hundred twenty-two dollars (\$822);
 11 and
 12 (B) not less than seventy-five dollars (\$75); ~~and~~
 13 (6) with respect to injuries occurring on and after July 1, 2002,
 14 **and before July 1, 2004:**
 15 (A) not more than eight hundred eighty-two dollars (\$882);
 16 and
 17 (B) not less than seventy-five dollars (\$75);
 18 **(7) with respect to injuries occurring on and after July 1,**
 19 **2004, and before July 1, 2005:**
 20 (A) not more than one thousand two dollars (\$1,002); and
 21 (B) not less than forty (40) times the state minimum wage
 22 established by IC 22-2-2;
 23 **(8) with respect to injuries occurring on and after July 1,**
 24 **2005, and before July 1, 2006:**
 25 (A) not more than one thousand sixty-two dollars (\$1,062);
 26 and
 27 (B) not less than forty (40) times the state minimum wage
 28 established by IC 22-2-2; and
 29 **(9) with respect to injuries occurring on and after July 1,**
 30 **2006:**
 31 (A) not more than one thousand one hundred twenty-two
 32 dollars (\$1,122); and
 33 (B) not less than forty (40) times the state minimum wage
 34 established by IC 22-2-2.

35 However, the weekly compensation payable shall not exceed the **actual**
 36 average weekly wages of the employee at the time of the injury.

37 (c) For the purpose of this section only and with respect to injuries
 38 occurring on and after July 1, 1971, and prior to July 1, 1974, only, the
 39 term "dependent" as used in this section shall mean persons defined as
 40 presumptive dependents under section 19 of this chapter, except that
 41 such dependency shall be determined as of the date of the injury to the
 42 employee.



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1 (d) With respect to any injury occurring on and after April 1, 1955,
 2 and prior to April 1, 1957, the maximum compensation exclusive of
 3 medical benefits, which shall be paid for an injury under any provisions
 4 of this law or under any combination of its provisions shall not exceed
 5 twelve thousand five hundred dollars (\$12,500) in any case. With
 6 respect to any injury occurring on and after April 1, 1957 and prior to
 7 April 1, 1963, the maximum compensation exclusive of medical
 8 benefits, which shall be paid for an injury under any provision of this
 9 law or under any combination of its provisions shall not exceed fifteen
 10 thousand dollars (\$15,000) in any case. With respect to any injury
 11 occurring on and after April 1, 1963, and prior to April 1, 1965, the
 12 maximum compensation exclusive of medical benefits, which shall be
 13 paid for an injury under any provision of this law or under any
 14 combination of its provisions shall not exceed sixteen thousand five
 15 hundred dollars (\$16,500) in any case. With respect to any injury
 16 occurring on and after April 1, 1965, and prior to April 1, 1967, the
 17 maximum compensation exclusive of medical benefits which shall be
 18 paid for any injury under any provision of this law or any combination
 19 of provisions shall not exceed twenty thousand dollars (\$20,000) in any
 20 case. With respect to any injury occurring on and after April 1, 1967,
 21 and prior to July 1, 1971, the maximum compensation exclusive of
 22 medical benefits which shall be paid for an injury under any provision
 23 of this law or any combination of provisions shall not exceed
 24 twenty-five thousand dollars (\$25,000) in any case. With respect to any
 25 injury occurring on and after July 1, 1971, and prior to July 1, 1974, the
 26 maximum compensation exclusive of medical benefits which shall be
 27 paid for any injury under any provision of this law or any combination
 28 of provisions shall not exceed thirty thousand dollars (\$30,000) in any
 29 case. With respect to any injury occurring on and after July 1, 1974,
 30 and before July 1, 1976, the maximum compensation exclusive of
 31 medical benefits which shall be paid for an injury under any provision
 32 of this law or any combination of provisions shall not exceed forty-five
 33 thousand dollars (\$45,000) in any case. With respect to an injury
 34 occurring on and after July 1, 1976, and before July 1, 1977, the
 35 maximum compensation, exclusive of medical benefits, which shall be
 36 paid for any injury under any provision of this law or any combination
 37 of provisions shall not exceed fifty-two thousand dollars (\$52,000) in
 38 any case. With respect to any injury occurring on and after July 1,
 39 1977, and before July 1, 1979, the maximum compensation, exclusive
 40 of medical benefits, which may be paid for an injury under any
 41 provision of this law or any combination of provisions may not exceed
 42 sixty thousand dollars (\$60,000) in any case. With respect to any injury

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1 occurring on and after July 1, 1979, and before July 1, 1980, the
 2 maximum compensation, exclusive of medical benefits, which may be
 3 paid for an injury under any provisions of this law or any combination
 4 of provisions may not exceed sixty-five thousand dollars (\$65,000) in
 5 any case. With respect to any injury occurring on and after July 1,
 6 1980, and before July 1, 1983, the maximum compensation, exclusive
 7 of medical benefits, which may be paid for an injury under any
 8 provisions of this law or any combination of provisions may not exceed
 9 seventy thousand dollars (\$70,000) in any case. With respect to any
 10 injury occurring on and after July 1, 1983, and before July 1, 1984, the
 11 maximum compensation, exclusive of medical benefits, which may be
 12 paid for an injury under any provisions of this law or any combination
 13 of provisions may not exceed seventy-eight thousand dollars (\$78,000)
 14 in any case. With respect to any injury occurring on and after July 1,
 15 1984, and before July 1, 1985, the maximum compensation, exclusive
 16 of medical benefits, which may be paid for an injury under any
 17 provisions of this law or any combination of provisions may not exceed
 18 eighty-three thousand dollars (\$83,000) in any case.

19 (k) With respect to any injury occurring on and after July 1, 1985,
 20 and before July 1, 1986, the maximum compensation, exclusive of
 21 medical benefits, which may be paid for an injury under any provisions
 22 of this law or any combination of provisions may not exceed
 23 eighty-nine thousand dollars (\$89,000) in any case.

24 (l) With respect to any injury occurring on and after July 1, 1986,
 25 and before July 1, 1988, the maximum compensation, exclusive of
 26 medical benefits, which may be paid for an injury under any provisions
 27 of this law or any combination of provisions may not exceed
 28 ninety-five thousand dollars (\$95,000) in any case.

29 (m) With respect to any injury occurring on and after July 1, 1988,
 30 and before July 1, 1989, the maximum compensation, exclusive of
 31 medical benefits, which may be paid for an injury under any provisions
 32 of this law or any combination of provisions may not exceed one
 33 hundred twenty-eight thousand dollars (\$128,000) in any case.

34 (n) With respect to any injury occurring on and after July 1, 1989,
 35 and before July 1, 1990, the maximum compensation, exclusive of
 36 medical benefits, which may be paid for an injury under any provisions
 37 of this law or any combination of provisions may not exceed one
 38 hundred thirty-seven thousand dollars (\$137,000) in any case.

39 (o) With respect to any injury occurring on and after July 1, 1990,
 40 and before July 1, 1991, the maximum compensation, exclusive of
 41 medical benefits, which may be paid for an injury under any provisions
 42 of this law or any combination of provisions may not exceed one

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1 hundred forty-seven thousand dollars (\$147,000) in any case.

2 (p) With respect to any injury occurring on and after July 1, 1991,
3 and before July 1, 1992, the maximum compensation, exclusive of
4 medical benefits, that may be paid for an injury under any provisions
5 of this law or any combination of provisions may not exceed one
6 hundred sixty-four thousand dollars (\$164,000) in any case.

7 (q) With respect to any injury occurring on and after July 1, 1992,
8 and before July 1, 1993, the maximum compensation, exclusive of
9 medical benefits, that may be paid for an injury under any provisions
10 of this law or any combination of provisions may not exceed one
11 hundred eighty thousand dollars (\$180,000) in any case.

12 (r) With respect to any injury occurring on and after July 1, 1993,
13 and before July 1, 1994, the maximum compensation, exclusive of
14 medical benefits, that may be paid for an injury under any provisions
15 of this law or any combination of provisions may not exceed one
16 hundred ninety-seven thousand dollars (\$197,000) in any case.

17 (s) With respect to any injury occurring on and after July 1, 1994,
18 and before July 1, 1997, the maximum compensation, exclusive of
19 medical benefits, which may be paid for an injury under any provisions
20 of this law or any combination of provisions may not exceed two
21 hundred fourteen thousand dollars (\$214,000) in any case.

22 (t) The maximum compensation, exclusive of medical benefits,
23 that may be paid for an injury under any provision of this law or any
24 combination of provisions may not exceed the following amounts in
25 any case:

26 (1) With respect to an injury occurring on and after July 1, 1997,
27 and before July 1, 1998, two hundred twenty-four thousand
28 dollars (\$224,000).

29 (2) With respect to an injury occurring on and after July 1, 1998,
30 and before July 1, 1999, two hundred thirty-four thousand dollars
31 (\$234,000).

32 (3) With respect to an injury occurring on and after July 1, 1999,
33 and before July 1, 2000, two hundred forty-four thousand dollars
34 (\$244,000).

35 (4) With respect to an injury occurring on and after July 1, 2000,
36 and before July 1, 2001, two hundred fifty-four thousand dollars
37 (\$254,000).

38 (5) With respect to an injury occurring on and after July 1, 2001,
39 and before July 1, 2002, two hundred seventy-four thousand
40 dollars (\$274,000).

41 (6) With respect to an injury occurring on and after July 1, 2002,
42 **and before July 1, 2004**, two hundred ninety-four thousand

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- 1 dollars (\$294,000).
- 2 **(7) With respect to an injury occurring on and after July 1,**
- 3 **2004, and before July 1, 2005, three hundred thirty-four**
- 4 **thousand dollars (\$334,000).**
- 5 **(8) With respect to an injury occurring on and after July 1,**
- 6 **2005, and before July 1, 2006, three hundred fifty-four**
- 7 **thousand dollars (\$354,000).**
- 8 **(9) With respect to an injury occurring on and after July 1,**
- 9 **2006, three hundred seventy-four thousand dollars (\$374,000).**

10 SECTION 12. IC 22-3-3-27 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 27. (a) The power and
 12 jurisdiction of the worker's compensation board over each case shall be
 13 continuing and from time to time it may, upon its own motion or upon
 14 the application of either party, on account of a change in conditions,
 15 make such modification or change in the award ending, lessening,
 16 continuing, or extending the payments previously awarded, either by
 17 agreement or upon hearing, as it may deem just, subject to the
 18 maximum and minimum provided for in IC 22-3-2 through IC 22-3-6.

19 (b) Upon making any such change, the board shall immediately send
 20 to each of the parties a copy of the modified award. No such
 21 modification shall affect the previous award as to any money paid
 22 thereunder.

23 (c) The board shall not make any ~~such~~ modification upon its own
 24 motion ~~nor shall or upon~~ any application ~~therefor be~~ filed by either
 25 party after the expiration of two (2) years from **the latest of the**
 26 **following:**

- 27 **(1) the last day for which compensation was paid under the**
- 28 **original award made either by agreement or upon hearing: except**
- 29 **that applications for increased permanent partial impairment are**
- 30 **barred unless filed within one (1) year from the last day for which**
- 31 **compensation was paid: for temporary total disability,**
- 32 **permanent partial impairment, or permanent total disability.**
- 33 **(2) The date of an award for temporary total disability,**
- 34 **permanent partial impairment, or permanent total disability.**
- 35 **(3) The last day that medical expenses under section 4 of this**
- 36 **chapter were provided to the employee.**

37 The board may at any time correct any clerical error in any finding or
 38 award.

39 SECTION 13. IC 22-3-3-33 IS ADDED TO THE INDIANA CODE
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 41 1, 2004]: **Sec. 33. (a) If an employee:**

- 42 **(1) receives an injury that results in a temporary total**

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1 disability or a temporary partial disability;
 2 (2) is capable of performing work with permanent limitations
 3 or restrictions that prevent the employee from returning to
 4 the position the employee held before the employee's injury;
 5 and
 6 (3) is enrolled in a training program approved by:
 7 (A) the incumbent workers training board established by
 8 IC 22-4-18.3-2; or
 9 (B) the unemployment insurance board created by
 10 IC 22-4-18-2;

11 the employee may receive disabled from trade compensation.
 12 (b) An employee may receive disabled from trade compensation
 13 for a period not to exceed:
 14 (1) fifty-two (52) consecutive weeks; or
 15 (2) seventy-eight (78) total weeks.
 16 (c) An employee is entitled to receive disabled from trade
 17 compensation in a weekly amount equal to the difference between
 18 the employee's average weekly wage from employment at the time
 19 of the injury and the employee's average weekly wage from
 20 employment after the injury with the permanent restrictions or
 21 limitations resulting from the injury.
 22 (d) The amount of disabled from trade compensation may not
 23 exceed the maximum average weekly wage amounts set forth in
 24 section 22 of this chapter.
 25 (e) Not later than sixty (60) days after the employee's release to
 26 return to work with restrictions or limitations, the employee must
 27 receive notice from the employer on a form provided by the board
 28 that informs the employee that the employee has been released to
 29 work with limitations or restrictions. The notice must include:
 30 (1) an explanation of the limitations or restrictions placed on
 31 the employee;
 32 (2) the amount of disabled from trade compensation the
 33 employee has been awarded; and
 34 (3) information for the employee regarding the terms of this
 35 section.
 36 (f) Disabled from trade compensation is in addition to any other
 37 compensation awarded to an employee as a result of a temporary
 38 total disability or a permanent partial impairment.
 39 (g) An employer may unilaterally convert an award of
 40 compensation for a temporary total disability or a temporary
 41 partial disability into disabled from trade compensation by filing
 42 a copy of the notice required under subsection (e) with the board.

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1 SECTION 14. IC 22-3-4-2 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The worker's
 3 compensation board may make rules not inconsistent with IC 22-3-2
 4 through IC 22-3-6 for carrying out the provisions of IC 22-3-2 through
 5 IC 22-3-6. Processes and procedures under IC 22-3-2 through
 6 IC 22-3-6 shall be as summary and simple as reasonably may be. The
 7 board or any member of the board shall have the power for the purpose
 8 of IC 22-3-2 through IC 22-3-6 to subpoena witnesses, administer or
 9 cause to have administered oaths, and to examine or cause to have
 10 examined such parts of the books and records of the parties to a
 11 proceeding as relate to questions in dispute.

12 (b) The county sheriff shall serve all subpoenas of the board **and the**
 13 **board ombudsmen appointed under IC 22-3-1-1** and shall receive
 14 the same fees as provided by law for like service in civil actions. Each
 15 witness who appears in obedience to such subpoenas of the board shall
 16 receive for attendance the fees and mileage for witnesses in civil cases
 17 in the courts.

18 (c) The circuit or superior court shall, on application of the board or
 19 any member of the board, enforce by proper proceedings the attendance
 20 and testimony of witnesses and the production and examination of
 21 books, papers, and records.

22 SECTION 15. IC 22-3-4-5 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) If the employer
 24 and the injured employee or the injured employee's dependents
 25 disagree in regard to the compensation payable under IC 22-3-2
 26 through IC 22-3-6 or, if they have reached such an agreement, which
 27 has been signed by them, filed with and approved by the worker's
 28 compensation board, and afterward disagree as to the continuance of
 29 payments under such agreement, or as to the period for which payments
 30 shall be made, or to the amount to be paid, because of a change in
 31 conditions since the making of such agreement, either party may then
 32 make an application to the board for the determination of the matters
 33 in dispute.

34 (b) Upon the filing of such application, the board shall set the date
 35 of hearing, which shall be as early as practicable, and shall notify the
 36 employee, employer, and attorneys of record in the manner prescribed
 37 by the board of the time and place of all hearings and requests for
 38 continuances. The hearing of all claims for compensation, on account
 39 of injuries occurring within the state, shall be held in the county in
 40 which the injury occurred, **or** in any adjoining county, except when the
 41 parties consent to a hearing elsewhere. Claims assigned to an
 42 individual board member that are considered to be of an emergency

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1 nature by that board member, may be heard in any county within the
2 board member's jurisdiction.

3 (c) All disputes arising under IC 22-3-2 through IC 22-3-6, if not
4 settled by the agreement of the parties interested therein, with the
5 approval of the board, shall be determined by the board.

6 SECTION 16. IC 22-3-4-6 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. The board by any or
8 all of its members **or the board ombudsmen appointed under**
9 **IC 22-3-1-1** shall hear the parties at issue, their representatives and
10 witnesses, and shall determine the dispute in a summary manner. The
11 award shall be filed with the record of proceedings, and a copy thereof
12 shall immediately be sent to each of the employee, employer, and
13 attorney of record in the dispute.

14 SECTION 17. IC 22-3-4-9 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) Upon order of the
16 worker's compensation board made after five (5) days notice is given
17 to the opposite party, any party in interest may file in the circuit or
18 superior court of the county in which the injury occurred a certified
19 copy of:

- 20 (1) the memorandum of agreement approved by the board; ~~or of~~
- 21 (2) an order or decision of the board; ~~or of~~
- 22 (3) an award of the full board unappealed from; or ~~of~~
- 23 (4) an award of the full board affirmed upon an appeal;

24 whereupon said court shall render judgment in accordance therewith
25 and notify the parties. Such judgment shall have the same effect and all
26 proceedings in relation thereto shall thereafter be the same as though
27 said judgment had been rendered in a suit duly heard and determined
28 by said court.

29 (b) Any such judgment of said circuit or superior court:

- 30 (1) unappealed from; ~~or~~
 - 31 (2) affirmed on appeal; or
 - 32 (3) modified in obedience to the mandate of the court of appeals;
- 33 shall be modified to conform to any decision of the worker's
34 compensation board ending, diminishing, or increasing any weekly
35 payment under the provisions of IC 22-3-3-27 upon the presentation to
36 it of a certified copy of such decision.

37 (c) **An employer shall pay a judgment entered under this section**
38 **not later than thirty (30) days after the date the judgment is final.**

39 (d) **An employer that fails to pay a judgment under this section**
40 **by the time required by subsection (c) shall pay the employee for**
41 **each day that the amount due the employee remains unpaid a**
42 **penalty equal to ten percent (10%) of the amount awarded the**

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1 employee in addition to the amount due. The maximum penalty
2 payable under this subsection is twice the unpaid amount due the
3 employee. The employee may recover the unpaid judgment and the
4 penalty described in this subsection in any court having
5 jurisdiction of a suit to collect the unpaid judgment along with
6 reasonable attorney's fees.

7 SECTION 18. IC 22-3-4-10 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. In all proceedings
9 before the worker's compensation board or in a court under IC 22-3-2
10 through IC 22-3-6, the costs shall be awarded and taxed as provided by
11 law in ordinary civil actions in the circuit court. **Prejudgment interest**
12 **shall be awarded at a rate of ten percent (10%) per year, accruing**
13 **from the date of filing of the application of adjustment of claim as**
14 **determined under section 5(a) of this chapter.**

15 SECTION 19. IC 22-3-4-15 IS ADDED TO THE INDIANA CODE
16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2004]: Sec. 15. (a) As used in this section, "board" refers to the
18 worker's compensation board created by IC 22-3-1-1.

19 (b) If an employee who from any cause:
20 (1) loses the use of one (1) hand, one (1) arm, one (1) foot, one
21 (1) leg, or one (1) eye, and in a subsequent industrial accident
22 or exposure becomes permanently and totally disabled
23 because of the loss, or loss of, another member or eye; or
24 (2) is impaired from an occupational disease and subsequently
25 becomes permanently and totally impaired from a second
26 occupational disease;

27 the employer is liable only for the compensation payable for the
28 second injury or impairment. However, in addition to and after the
29 completion of the payment of that compensation, the employee
30 shall be paid the remainder of the compensation that is due for the
31 total permanent disability out of a special fund known as the
32 second injury fund created as described in subsection (c).

33 (c) Whenever the board determines under the procedures set
34 forth in subsection (d) that an assessment is necessary to ensure
35 that fund beneficiaries, including applicants under IC 22-3-3-4(g)
36 or IC 22-3-7-17(e), continue to receive compensation in a timely
37 manner for a reasonable prospective period, the board shall send
38 notice to:

39 (1) all insurance carriers and other entities insuring or
40 providing coverage to employers who are or may be liable
41 under this article to pay compensation for the:
42 (A) personal injuries or occupational disease to; or

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(B) death of;
their employees under this article; and
(2) each employer carrying the employer's own risk;
stating that an assessment is necessary. The board may conduct an
assessment under this subsection not more than one (1) time
annually. Every insurance carrier and other entity insuring or
providing coverage to employers who are or may be liable under
this article to pay compensation for the personal injuries or
occupational disease to or the death of their employees under this
article and every employer carrying the employer's own risk, shall,
within thirty (30) days of the board sending notice under this
subsection, pay to the worker's compensation board for the benefit
of the fund an assessed amount equal to the recommended funding
level under subsection (d). For purposes of calculating the
assessment under this subsection, the board may consider
payments for temporary total disability, temporary partial
disability, permanent total impairment, permanent partial
impairment, or death of an employee. The board shall not consider
payments for medical benefits in calculating an assessment under
this subsection. On or before October 1 of any year when the
amount to the credit of the fund is insufficient to fulfill the
obligations of the fund, the board shall assess an amount equal to
the recommended funding level of the total amount of all
compensation paid to employees or their beneficiaries under
IC 22-3-2 through IC 22-3-7 for the calendar year preceding that
date to be paid into the fund.

(d) The board shall enter into a contract with an actuary or
another qualified firm that has experience in calculating worker's
compensation liabilities. The actuary or other qualified firm shall
calculate the recommended funding level of the fund based on the
previous year's claims and inform the board of the results of the
calculation. If the amount to the credit of the fund is less than the
amount required under subsection (c), the board may conduct an
assessment under subsection (c). The board shall pay the costs of
the contract under this subsection with money in the fund.

(e) An assessment collected under subsection (c) on an employer
who is not self-insured must be based on the employer's premium.
An assessment collected under subsection (c) does not constitute an
element of loss, but for the purpose of collection shall be treated as
a separate cost imposed upon insured employers. An assessment
under this subsection must be collected at the same time and in the
same manner in which the premium for coverage is collected, and

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1 must be shown as a separate amount on a premium statement. An
2 assessment under this subsection must be excluded from the
3 definition of premium for all purposes, including the computation
4 of agent commissions or premium taxes. However, an insurer may
5 cancel a worker's compensation policy for nonpayment of the
6 assessment. A cancellation under this subsection must be carried
7 out under the statutes applicable to the nonpayment of premiums.

8 (f) The sums shall be paid by the board to the treasurer of state,
9 to be deposited in a special account known as the second injury
10 fund. The funds are not a part of the general fund of the state. Any
11 balance remaining in the account at the end of any fiscal year shall
12 not revert to the general fund. The funds shall be used only for the
13 payment of awards of compensation and expense of medical
14 examinations or treatment made and ordered by the board and
15 chargeable against the fund under this section, and shall be paid
16 for that purpose by the treasurer of state upon award or order of
17 the board.

18 (g) All insurance carriers subject to an assessment under this
19 section are required to provide to the board:

- 20 (1) not later than January 31 each calendar year; and
 - 21 (2) not later than thirty (30) days after a change occurs;
- 22 the name, address, and electronic mail address of a representative
23 authorized to receive the notice of an assessment.

24 (h) For each day an:

- 25 (1) insurance carrier or other entity insuring or providing
- 26 coverage to an employer that is or may be liable to pay
- 27 compensation for the:
 - 28 (A) personal injuries or occupational disease to; or
 - 29 (B) death of;
- 30 the employer's employees under this article; or
- 31 (2) employer carrying the employer's own risk;

32 fails to pay an assessment after the day it is due under this section,
33 the board shall assess a fine of not more than ten percent (10%) of
34 the assessment due, but not less than five hundred dollars (\$500),
35 payable to the second injury fund created under subsection (b).

36 (i) In addition to assessing the fine provided under subsection
37 (h), the board shall refer an insurance carrier that does not comply
38 with this section to the department of insurance for administrative
39 action for committing an unfair or a deceptive act and practice
40 under IC 27-4-1.

41 SECTION 20. IC 22-3-5-6, AS AMENDED BY P.L.202-2001,
42 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2004]: Sec. 6. (a) The worker's compensation supplemental
 2 administrative fund is established for the purpose of following
 3 purposes:

- 4 (1) Carrying out the administrative purposes and functions of the
 5 worker's compensation board.
- 6 (2) Administering the costs of the worker's compensation law
 7 (IC 22-3-2 through IC 22-3-6) and the occupational diseases
 8 law (IC 22-3-7).

9 (b) The fund consists of the following:

- 10 (1) Assessments collected under section 7 of this chapter.
- 11 (2) Fees collected from employers under sections 1 through 2 of
 12 this chapter. and from
- 13 (3) Fees collected under IC 22-3-2-14.5 and IC 22-3-7-34.5.
- 14 (4) Money received from any other source.
- 15 (5) Interest earned from money in the fund.
- 16 (6) Earnings acquired through the use of money from the
 17 fund.
- 18 (7) Interest and penalties collected.

19 (c) The fund shall be administered by the worker's compensation
 20 board. The expenses of administering the fund shall be paid from
 21 money in the fund.

22 (d) Money in the fund is annually appropriated to the worker's
 23 compensation board and shall be used for all expenses incurred by the
 24 worker's compensation board to carry out the purposes listed in
 25 subsection (a).

26 (e) The treasurer of state shall invest the money in the fund not
 27 currently needed to meet the obligations of the fund in the same
 28 manner as other public money may be invested. Interest that
 29 accrues from these investments shall be deposited in the fund.

30 (b) The money in the fund is not to be used to replace funds
 31 otherwise appropriated to the board: (f) Money in the fund at the end
 32 of the state fiscal year does not revert to the state general fund.

33 SECTION 21. IC 22-3-5-7 IS ADDED TO THE INDIANA CODE
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 35 1, 2004]: Sec. 7. (a) As used in this section, "board" refers to the
 36 worker's compensation board established by IC 22-3-1-1.

37 (b) Not later than May 1 of each year, the board, subject to the
 38 budget agency's approval, shall calculate the recommended
 39 funding level of the worker's compensation supplemental
 40 administrative fund established by section 6 of this chapter based
 41 on the previous fiscal year's expenses of adequately administering
 42 and the projected increases necessary to adequately administer the

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1 worker's compensation system.

2 (c) Not later than June 1 of each year, the board shall send
3 notice to:

4 (1) all insurance carriers and other entities insuring or
5 providing coverage to employers that are required under
6 section 1 of this chapter or IC 22-3-7-34 to insure or keep
7 insured for employer liability under IC 22-3-2 through
8 IC 22-3-7; and

9 (2) each employer carrying the employer's own risk under
10 section 1 of this chapter or IC 22-3-7-34;

11 of the amount of the assessment as determined under subsection
12 (b).

13 (d) Not later than thirty (30) days after receiving notice from the
14 board, every insurer described in subsection (c)(1) and every
15 employer described in subsection (c)(2) shall pay the assessment to
16 the board for the benefit of the worker's compensation
17 supplemental administrative fund created by section 6 of this
18 chapter.

19 (e) An assessment collected under subsection (d) on an employer
20 that is not self-insured must be based on the employer's premium.
21 The assessment collected under subsection (d) does not constitute
22 an element of loss, but for the purpose of collection shall be treated
23 as a separate cost imposed on insured employers. The assessment
24 under this section shall be collected at the same time and in the
25 same manner in which the premium for coverage is collected and
26 must be shown as a separate amount on a premium statement. An
27 assessment under this section must be excluded from the definition
28 of premium for all purposes, including the computation of agent
29 commissions or premium taxes. However, an insurer may cancel
30 a worker's compensation policy for nonpayment of the assessment
31 under the statutes applicable to the nonpayment of premiums.

32 (f) The board shall deposit the amounts collected under
33 subsection (d) in the worker's compensation supplemental
34 administrative fund established by section 6 of this chapter.

35 SECTION 22. IC 22-3-7-15 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. In all cases of the
37 death of an employee from an occupational disease arising out of and
38 in the course of the employee's employment under such circumstances
39 that the employee would have been entitled to compensation if death
40 had not resulted, the employer shall pay the burial expenses of such
41 employee, not exceeding ~~six~~ **eight** thousand ~~five~~ **hundred** dollars
42 (~~\$6,000~~). (**\$8,500**).

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1 SECTION 23. IC 22-3-7-16, AS AMENDED BY P.L.1-2001,
 2 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2004]: Sec. 16. (a) Compensation shall be allowed on account
 4 of disablement from occupational disease resulting in only temporary
 5 total disability to work or temporary partial disability to work
 6 beginning with:

7 (1) the eighth day of ~~such~~ the disability, for disablements
 8 occurring before July 1, 2004; and

9 (2) the third day of the disability, for disablements occurring
 10 after June 30, 2004;

11 except for the medical benefits provided for in section 17 of this
 12 chapter. **For disablements occurring before July 1, 2004,**
 13 compensation shall be allowed for the first seven (7) calendar days only
 14 as provided in ~~this section~~: **subsection (g) or (h). For disablements**
 15 **occurring after June 30, 2004, compensation is allowed for the first**
 16 **three (3) calendar days only if the disability continues for at least**
 17 **fourteen (14) days.** The first weekly installment of compensation for
 18 temporary disability is due fourteen (14) days after the disability
 19 begins. Not later than fifteen (15) days from the date that the first
 20 installment of compensation is due, the employer or the employer's
 21 insurance carrier shall tender to the employee or to the employee's
 22 dependents, with all compensation due, a properly prepared
 23 compensation agreement in a form prescribed by the board. Whenever
 24 an employer or the employer's insurance carrier denies or is not able to
 25 determine liability to pay compensation or benefits, the employer or the
 26 employer's insurance carrier shall notify the worker's compensation
 27 board and the employee in writing on a form prescribed by the worker's
 28 compensation board not later than thirty (30) days after the employer's
 29 knowledge of the claimed disablement. If a determination of liability
 30 cannot be made within thirty (30) days, the worker's compensation
 31 board may approve an additional thirty (30) days upon a written request
 32 of the employer or the employer's insurance carrier that sets forth the
 33 reasons that the determination could not be made within thirty (30)
 34 days and states the facts or circumstances that are necessary to
 35 determine liability within the additional thirty (30) days. More than
 36 thirty (30) days of additional time may be approved by the worker's
 37 compensation board upon the filing of a petition by the employer or the
 38 employer's insurance carrier that sets forth:

39 (1) the extraordinary circumstances that have precluded a
 40 determination of liability within the initial sixty (60) days;

41 (2) the status of the investigation on the date the petition is filed;

42 (3) the facts or circumstances that are necessary to make a

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determination; and

(4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty of fifty dollars (\$50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund. An employer that fails to pay the temporary total disability compensation required by this section shall pay the employee for each day that the amount due the employee remains unpaid a penalty equal to ten percent (10%) of the amount due the employee in addition to the compensation due. The maximum penalty payable under this subsection is twice the unpaid temporary total disability compensation due the employee. The employee may recover the unpaid temporary total disability compensation and the penalty described in this subsection in a suit before the workers compensation board along with reasonable attorney's fees.

(b) Once begun, temporary total disability benefits may not be terminated by the employer unless:

- (1) the employee has returned to work;
- (2) the employee has died;
- (3) the employee has refused to undergo a medical examination under section 20 of this chapter;
- (4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowable under section 19 of this chapter; ~~or~~
- (5) the employee is unable or unavailable to work for reasons unrelated to the compensable disease; **or**
- (6) the employee returns to work with limitations or restrictions, and the employer converts temporary total disability or temporary partial disability compensation into disabled from trade compensation under section 16.5 of this chapter.**

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits, and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately

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1 contact the parties, which may be by telephone or other means and
 2 attempt to resolve the disagreement. If the board is unable to resolve
 3 the disagreement within ten (10) days of receipt of the notice of
 4 disagreement, the board shall immediately arrange for an evaluation of
 5 the employee by an independent medical examiner. The independent
 6 medical examiner shall be selected by mutual agreement of the parties
 7 or, if the parties are unable to agree, appointed by the board under
 8 IC 22-3-4-11. If the independent medical examiner determines that the
 9 employee is no longer temporarily disabled or is still temporarily
 10 disabled but can return to employment that the employer has made
 11 available to the employee, or if the employee fails or refuses to appear
 12 for examination by the independent medical examiner, temporary total
 13 disability benefits may be terminated. If either party disagrees with the
 14 opinion of the independent medical examiner, the party shall apply to
 15 the board for a hearing under section 27 of this chapter.

16 **(c) If an employer desires to have an employee examined by a**
 17 **physician other than the employee's attending physician (described**
 18 **in section 17 of this chapter) to determine the employee's:**

- 19 **(1) temporary total disability; or**
 20 **(2) permanent partial impairment rating;**

21 **the employer shall petition the board for the appointment of an**
 22 **independent medical examiner under IC 22-3-4-11. The employer**
 23 **shall pay the fees and expenses of the independent medical**
 24 **examination. The independent medical examiner's appointment**
 25 **and determination of the employee's quiescence or level of**
 26 **impairment is instead of any other rights provided to the employee**
 27 **under this section.**

28 **(d) If:**

- 29 **(1) the transfer or redirection of an employee's medical**
 30 **treatment occurs;**
 31 **(2) the physician to whom the employee is transferred or**
 32 **redirected is not appointed as an independent medical**
 33 **examiner under subsection (c); and**
 34 **(3) the physician to whom the employee is transferred or**
 35 **redirected issues a determination as to the employee's:**

- 36 **(A) temporary total disability; or**
 37 **(B) permanent partial impairment;**

38 **within sixty (60) days of the date the physician first examines or**
 39 **treats the employee, the physician's determination is not admissible**
 40 **in a proceeding to determine the employee's temporary total**
 41 **disability or permanent partial impairment.**

42 **(e) An employer is not required to continue the payment of**

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1 temporary total disability benefits for more than fourteen (14) days
2 after the employer's proposed termination date unless the independent
3 medical examiner determines that the employee is temporarily disabled
4 and unable to return to any employment that the employer has made
5 available to the employee.

6 ~~(d)~~ (f) If it is determined that as a result of this section temporary
7 total disability benefits were overpaid, the overpayment shall be
8 deducted from any benefits due the employee under this section and,
9 if there are no benefits due the employee or the benefits due the
10 employee do not equal the amount of the overpayment, the employee
11 shall be responsible for paying any overpayment which cannot be
12 deducted from benefits due the employee.

13 ~~(e)~~ For disablements occurring on and after April 1, 1951, and prior
14 to July 1, 1971, from occupational disease resulting in temporary total
15 disability for any work there shall be paid to the disabled employee
16 during such temporary total disability a weekly compensation equal to
17 sixty percent (60%) of the employee's average weekly wages for a
18 period not to exceed five hundred (500) weeks. Compensation shall be
19 allowed for the first seven (7) calendar days only if the disability
20 continues for longer than twenty-eight (28) days.

21 For disablements occurring on and after July 1, 1971, and prior to
22 July 1, 1974, from occupational disease resulting in temporary total
23 disability for any work there shall be paid to the disabled employee
24 during such temporary total disability a weekly compensation equal to
25 sixty percent (60%) of the employee's average weekly wages, as
26 defined in section 19 of this chapter, for a period not to exceed five
27 hundred (500) weeks. Compensation shall be allowed for the first seven
28 (7) calendar days only if the disability continues for longer than
29 twenty-eight (28) days.

30 For disablements occurring on and after July 1, 1974, and before
31 July 1, 1976, from occupational disease resulting in temporary total
32 disability for any work there shall be paid to the disabled employee
33 during such temporary total disability a weekly compensation equal to
34 sixty-six and two-thirds percent (66 2/3%) of the employee's average
35 weekly wages, up to one hundred thirty-five dollars (\$135) average
36 weekly wages, as defined in section 19 of this chapter, for a period not
37 to exceed five hundred (500) weeks. Compensation shall be allowed for
38 the first seven (7) calendar days only if the disability continues for
39 longer than twenty-one (21) days.

40 (g) For disablements occurring on and after July 1, 1976, from
41 occupational disease resulting in temporary total disability for any work
42 there shall be paid to the disabled employee during the temporary total

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1 disability weekly compensation equal to sixty-six and two-thirds
 2 percent (66 2/3%) of the employee's average weekly wages, as defined
 3 in section 19 of this chapter, for a period not to exceed five hundred
 4 (500) weeks. **For disablements occurring before July 1, 2004,**
 5 compensation shall be allowed for the first seven (7) calendar days only
 6 if the disability continues for longer than twenty-one (21) days. **For**
 7 **disablements occurring after June 30, 2004, compensation is**
 8 **allowed for the first three (3) calendar days only if the disability**
 9 **continues for at least fourteen (14) days.**

10 (f) For disablements occurring on and after April 1, 1951, and prior
 11 to July 1, 1971, from occupational disease resulting in temporary
 12 partial disability for work there shall be paid to the disabled employee
 13 during such disability a weekly compensation equal to sixty percent
 14 (60%) of the difference between the employee's average weekly wages
 15 and the weekly wages at which the employee is actually employed after
 16 the disablement, for a period not to exceed three hundred (300) weeks.
 17 Compensation shall be allowed for the first seven (7) calendar days
 18 only if the disability continues for longer than twenty-eight (28) days.
 19 In case of partial disability after the period of temporary total disability,
 20 the later period shall be included as part of the maximum period
 21 allowed for partial disability.

22 For disablements occurring on and after July 1, 1971, and prior to
 23 July 1, 1974, from occupational disease resulting in temporary partial
 24 disability for work there shall be paid to the disabled employee during
 25 such disability a weekly compensation equal to sixty percent (60%) of
 26 the difference between the employee's average weekly wages, as
 27 defined in section 19 of this chapter, and the weekly wages at which the
 28 employee is actually employed after the disablement, for a period not
 29 to exceed three hundred (300) weeks. Compensation shall be allowed
 30 for the first seven (7) calendar days only if the disability continues for
 31 longer than twenty-eight (28) days. In case of partial disability after the
 32 period of temporary total disability, the latter period shall be included
 33 as a part of the maximum period allowed for partial disability.

34 (h) For disablements occurring on and after July 1, 1974, from
 35 occupational disease resulting in temporary partial disability for work
 36 there shall be paid to the disabled employee during such disability a
 37 weekly compensation equal to sixty-six and two-thirds percent (66
 38 2/3%) of the difference between the employee's average weekly wages,
 39 as defined in section 19 of this chapter, and the weekly wages at which
 40 ~~he~~ **the employee** is actually employed after the disablement, for a
 41 period not to exceed three hundred (300) weeks. **For disablements**
 42 **occurring before July 1, 2004,** compensation shall be allowed for the

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1 first seven (7) calendar days only if the disability continues for longer
 2 than twenty-one (21) days. **For disablements occurring after June**
 3 **30, 2004, compensation is allowed for the first three (3) calendar**
 4 **days only if the disability continues for at least fourteen (14) days.**
 5 In case of partial disability after the period of temporary total disability,
 6 the latter period shall be included as a part of the maximum period
 7 allowed for partial disability.

8 (g) For disabilities occurring on and after April 1, 1951, and prior
 9 to April 1, 1955, from occupational disease in the following schedule;
 10 the employee shall receive in lieu of all other compensation, on account
 11 of such disabilities, a weekly compensation of sixty percent (60%) of
 12 the employee's average weekly wage; for disabilities occurring on and
 13 after April 1, 1955, and prior to July 1, 1971, from occupational disease
 14 in the following schedule, the employee shall receive in addition to
 15 disability benefits not exceeding twenty-six (26) weeks on account of
 16 said occupational disease a weekly compensation of sixty percent
 17 (60%) of the employee's average weekly wages.

18 For disabilities occurring on and after July 1, 1971, and before July
 19 1, 1977, from occupational disease in the following schedule, the
 20 employee shall receive in addition to disability benefits not exceeding
 21 twenty-six (26) weeks on account of said occupational disease a weekly
 22 compensation of sixty percent (60%) of his average weekly wages not
 23 to exceed one hundred dollars (\$100) average weekly wages; for the
 24 period stated for such disabilities respectively.

25 For disabilities occurring on and after July 1, 1977, and before July
 26 1, 1979, from occupational disease in the following schedule, the
 27 employee shall receive in addition to disability benefits not exceeding
 28 twenty-six (26) weeks on account of the occupational disease a weekly
 29 compensation of sixty percent (60%) of the employee's average weekly
 30 wages; not to exceed one hundred twenty-five dollars (\$125) average
 31 weekly wages; for the period stated for the disabilities.

32 (i) For disabilities occurring on and after July 1, 1979, and before
 33 July 1, 1988, from occupational disease in the following schedule, the
 34 employee shall receive in addition to disability benefits, not exceeding
 35 fifty-two (52) weeks on account of the occupational disease, a weekly
 36 compensation of sixty percent (60%) of the employee's average weekly
 37 wages, not to exceed one hundred twenty-five dollars (\$125) average
 38 weekly wages, for the period stated for the disabilities.

39 (j) For disabilities occurring on and after July 1, 1988, and before
 40 July 1, 1989, from occupational disease in the following schedule, the
 41 employee shall receive in addition to disability benefits, not exceeding
 42 seventy-eight (78) weeks on account of the occupational disease, a

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1 weekly compensation of sixty percent (60%) of the employee's average
2 weekly wages, not to exceed one hundred sixty-six dollars (\$166)
3 average weekly wages, for the period stated for the disabilities.

4 (k) For disabilities occurring on and after July 1, 1989, and before
5 July 1, 1990, from occupational disease in the following schedule, the
6 employee shall receive in addition to disability benefits, not exceeding
7 seventy-eight (78) weeks on account of the occupational disease, a
8 weekly compensation of sixty percent (60%) of the employee's average
9 weekly wages, not to exceed one hundred eighty-three dollars (\$183)
10 average weekly wages, for the period stated for the disabilities.

11 (l) For disabilities occurring on and after July 1, 1990, and before
12 July 1, 1991, from occupational disease in the following schedule, the
13 employee shall receive in addition to disability benefits, not exceeding
14 seventy-eight (78) weeks on account of the occupational disease, a
15 weekly compensation of sixty percent (60%) of the employee's average
16 weekly wages, not to exceed two hundred dollars (\$200) average
17 weekly wages, for the period stated for the disabilities.

18 (1) Amputations: For the loss by separation, of the thumb, sixty
19 (60) weeks; of the index finger, forty (40) weeks; of the second
20 finger, thirty-five (35) weeks; of the third or ring finger, thirty
21 (30) weeks; of the fourth or little finger, twenty (20) weeks; of the
22 hand by separation below the elbow, two hundred (200) weeks; of
23 the arm above the elbow joint, two hundred fifty (250) weeks; of
24 the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks;
25 of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15)
26 weeks; of the fifth or little toe, ten (10) weeks; of the foot below
27 the knee joint, one hundred fifty (150) weeks; and of the leg
28 above the knee joint, two hundred (200) weeks. The loss of more
29 than one (1) phalange of a thumb or toe shall be considered as the
30 loss of the entire thumb or toe. The loss of more than two (2)
31 phalanges of a finger shall be considered as the loss of the entire
32 finger. The loss of not more than one (1) phalange of a thumb or
33 toe shall be considered as the loss of one-half (1/2) of the thumb
34 or toe and compensation shall be paid for one-half (1/2) of the
35 period for the loss of the entire thumb or toe. The loss of not more
36 than two (2) phalanges of a finger shall be considered as the loss
37 of one-half (1/2) the finger and compensation shall be paid for
38 one-half (1/2) of the period for the loss of the entire finger.

39 (2) Loss of Use: The total permanent loss of the use of an arm,
40 hand, thumb, finger, leg, foot, toe, or phalange shall be considered
41 as the equivalent of the loss by separation of the arm, hand,
42 thumb, finger, leg, foot, toe, or phalange and the compensation

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1 shall be paid for the same period as for the loss thereof by
 2 separation.

3 (3) Partial Loss of Use: For the permanent partial loss of the use
 4 of an arm, hand, thumb, finger, leg, foot, toe, or phalange,
 5 compensation shall be paid for the proportionate loss of the use of
 6 such arm, hand, thumb, finger, leg, foot, toe, or phalange.

7 (4) For disablements for occupational disease resulting in total
 8 permanent disability, five hundred (500) weeks.

9 (5) For the loss of both hands, or both feet, or the total sight of
 10 both eyes, or any two (2) of such losses resulting from the same
 11 disablement by occupational disease, five hundred (500) weeks.

12 (6) For the permanent and complete loss of vision by enucleation
 13 of an eye or its reduction to one-tenth (1/10) of normal vision with
 14 glasses, one hundred fifty (150) weeks, and for any other
 15 permanent reduction of the sight of an eye, compensation shall be
 16 paid for a period proportionate to the degree of such permanent
 17 reduction without correction or glasses. However, when such
 18 permanent reduction without correction or glasses would result in
 19 one hundred percent (100%) loss of vision, but correction or
 20 glasses would result in restoration of vision, then compensation
 21 shall be paid for fifty percent (50%) of such total loss of vision
 22 without glasses plus an additional amount equal to the
 23 proportionate amount of such reduction with glasses, not to
 24 exceed an additional fifty percent (50%).

25 (7) For the permanent and complete loss of hearing, two hundred
 26 (200) weeks.

27 (8) In all other cases of permanent partial impairment,
 28 compensation proportionate to the degree of such permanent
 29 partial impairment, in the discretion of the worker's compensation
 30 board, not exceeding five hundred (500) weeks.

31 (9) In all cases of permanent disfigurement, which may impair the
 32 future usefulness or opportunities of the employee, compensation
 33 in the discretion of the worker's compensation board, not
 34 exceeding two hundred (200) weeks, except that no compensation
 35 shall be payable under this paragraph where compensation shall
 36 be payable under subdivisions (1) through (8). Where
 37 compensation for temporary total disability has been paid, this
 38 amount of compensation shall be deducted from any
 39 compensation due for permanent disfigurement.

40 (m) With respect to disablements in the following schedule
 41 occurring on and after July 1, 1991, the employee shall receive in
 42 addition to temporary total disability benefits, not exceeding one

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1 hundred twenty-five (125) weeks on account of the disablement,
2 compensation in an amount determined under the following schedule
3 to be paid weekly at a rate of sixty-six and two-thirds percent (66 2/3%)
4 of the employee's average weekly wages during the fifty-two (52)
5 weeks immediately preceding the week in which the disablement
6 occurred:

7 (1) Amputation: For the loss by separation of the thumb, twelve
8 (12) degrees of permanent impairment; of the index finger, eight
9 (8) degrees of permanent impairment; of the second finger, seven
10 (7) degrees of permanent impairment; of the third or ring finger,
11 six (6) degrees of permanent impairment; of the fourth or little
12 finger, four (4) degrees of permanent impairment; of the hand by
13 separation below the elbow joint, forty (40) degrees of permanent
14 impairment; of the arm above the elbow, fifty (50) degrees of
15 permanent impairment; of the big toe, twelve (12) degrees of
16 permanent impairment; of the second toe, six (6) degrees of
17 permanent impairment; of the third toe, four (4) degrees of
18 permanent impairment; of the fourth toe, three (3) degrees of
19 permanent impairment; of the fifth or little toe, two (2) degrees of
20 permanent impairment; of separation of the foot below the knee
21 joint, thirty-five (35) degrees of permanent impairment; and of the
22 leg above the knee joint, forty-five (45) degrees of permanent
23 impairment.

24 (2) Amputations occurring on or after July 1, 1997: For the loss
25 by separation of any of the body parts described in subdivision (1)
26 on or after July 1, 1997, the dollar values per degree applying on
27 the date of the injury as described in subsection (h) shall be
28 multiplied by two (2). However, the doubling provision of this
29 subdivision does not apply to a loss of use that is not a loss by
30 separation.

31 (3) The loss of more than one (1) phalange of a thumb or toe shall
32 be considered as the loss of the entire thumb or toe. The loss of
33 more than two (2) phalanges of a finger shall be considered as the
34 loss of the entire finger. The loss of not more than one (1)
35 phalange of a thumb or toe shall be considered as the loss of
36 one-half (1/2) of the degrees of permanent impairment for the loss
37 of the entire thumb or toe. The loss of not more than one (1)
38 phalange of a finger shall be considered as the loss of one-third
39 (1/3) of the finger and compensation shall be paid for one-third
40 (1/3) of the degrees payable for the loss of the entire finger. The
41 loss of more than one (1) phalange of the finger but not more than
42 two (2) phalanges of the finger shall be considered as the loss of

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1 one-half (1/2) of the finger and compensation shall be paid for
 2 one-half (1/2) of the degrees payable for the loss of the entire
 3 finger.
 4 (4) For the loss by separation of both hands or both feet or the
 5 total sight of both eyes or any two (2) such losses in the same
 6 accident, one hundred (100) degrees of permanent impairment.
 7 (5) For the permanent and complete loss of vision by enucleation
 8 or its reduction to one-tenth (1/10) of normal vision with glasses,
 9 thirty-five (35) degrees of permanent impairment.
 10 (6) For the permanent and complete loss of hearing in one (1) ear,
 11 fifteen (15) degrees of permanent impairment, and in both ears,
 12 forty (40) degrees of permanent impairment.
 13 (7) For the loss of one (1) testicle, ten (10) degrees of permanent
 14 impairment; for the loss of both testicles, thirty (30) degrees of
 15 permanent impairment.
 16 (8) Loss of use: The total permanent loss of the use of an arm, a
 17 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be
 18 considered as the equivalent of the loss by separation of the arm,
 19 hand, thumb, finger, leg, foot, toe, or phalange, and compensation
 20 shall be paid in the same amount as for the loss by separation.
 21 However, the doubling provision of subdivision (2) does not
 22 apply to a loss of use that is not a loss by separation.
 23 (9) Partial loss of use: For the permanent partial loss of the use of
 24 an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a
 25 phalange, compensation shall be paid for the proportionate loss of
 26 the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.
 27 (10) For disablements resulting in total permanent disability, the
 28 amount payable for impairment or five hundred (500) weeks of
 29 compensation, whichever is greater.
 30 (11) For any permanent reduction of the sight of an eye less than
 31 a total loss as specified in subdivision (5), the compensation shall
 32 be paid in an amount proportionate to the degree of a permanent
 33 reduction without correction or glasses. However, when a
 34 permanent reduction without correction or glasses would result in
 35 one hundred percent (100%) loss of vision, then compensation
 36 shall be paid for fifty percent (50%) of the total loss of vision
 37 without glasses, plus an additional amount equal to the
 38 proportionate amount of the reduction with glasses, not to exceed
 39 an additional fifty percent (50%).
 40 (12) For any permanent reduction of the hearing of one (1) or both
 41 ears, less than the total loss as specified in subdivision (6),
 42 compensation shall be paid in an amount proportionate to the

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degree of a permanent reduction.
(13) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.
(14) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.
~~(h)~~ (n) With respect to disablements occurring on and after July 1, 1991, compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the disablement determined under subsection ~~(d)~~ (m) and the following:
(1) With respect to disablements occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars (\$500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars (\$1,500) per degree.
(2) With respect to disablements occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars (\$500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars (\$800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.
(3) With respect to disablements occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars (\$500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars (\$700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty

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1 (50), one thousand four hundred dollars (\$1,400) per degree; for
2 each degree of permanent impairment above fifty (50), one
3 thousand seven hundred dollars (\$1,700) per degree.
4 (4) With respect to disablements occurring on and after July 1,
5 1997, and before July 1, 1998, for each degree of permanent
6 impairment from one (1) to ten (10), seven hundred fifty dollars
7 (\$750) per degree; for each degree of permanent impairment from
8 eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per
9 degree; for each degree of permanent impairment from thirty-six
10 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
11 degree; for each degree of permanent impairment above fifty (50),
12 one thousand seven hundred dollars (\$1,700) per degree.
13 (5) With respect to disablements occurring on and after July 1,
14 1998, and before July 1, 1999, for each degree of permanent
15 impairment from one (1) to ten (10), seven hundred fifty dollars
16 (\$750) per degree; for each degree of permanent impairment from
17 eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per
18 degree; for each degree of permanent impairment from thirty-six
19 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
20 degree; for each degree of permanent impairment above fifty (50),
21 one thousand seven hundred dollars (\$1,700) per degree.
22 (6) With respect to disablements occurring on and after July 1,
23 1999, and before July 1, 2000, for each degree of permanent
24 impairment from one (1) to ten (10), nine hundred dollars (\$900)
25 per degree; for each degree of permanent impairment from eleven
26 (11) to thirty-five (35), one thousand one hundred dollars
27 (\$1,100) per degree; for each degree of permanent impairment
28 from thirty-six (36) to fifty (50), one thousand six hundred dollars
29 (\$1,600) per degree; for each degree of permanent impairment
30 above fifty (50), two thousand dollars (\$2,000) per degree.
31 (7) With respect to disablements occurring on and after July 1,
32 2000, and before July 1, 2001, for each degree of permanent
33 impairment from one (1) to ten (10), one thousand one hundred
34 dollars (\$1,100) per degree; for each degree of permanent
35 impairment from eleven (11) to thirty-five (35), one thousand
36 three hundred dollars (\$1,300) per degree; for each degree of
37 permanent impairment from thirty-six (36) to fifty (50), two
38 thousand dollars (\$2,000) per degree; for each degree of
39 permanent impairment above fifty (50), two thousand five
40 hundred fifty dollars (\$2,500) per degree.
41 (8) With respect to disablements occurring on and after July 1,
42 2001, **and before July 1, 2004**, for each degree of permanent

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1 impairment from one (1) to ten (10), one thousand three hundred
 2 dollars (\$1,300) per degree; for each degree of permanent
 3 impairment from eleven (11) to thirty-five (35), one thousand five
 4 hundred dollars (\$1,500) per degree; for each degree of
 5 permanent impairment from thirty-six (36) to fifty (50), two
 6 thousand four hundred dollars (\$2,400) per degree; for each
 7 degree of permanent impairment above fifty (50), three thousand
 8 dollars (\$3,000) per degree.

9 **(9) With respect to disablements occurring on and after July**
 10 **1, 2004, and before July 1, 2005, for each degree of permanent**
 11 **impairment from one (1) to ten (10), one thousand nine**
 12 **hundred dollars (\$1,900) per degree; for each degree of**
 13 **permanent impairment from eleven (11) to thirty-five (35),**
 14 **two thousand one hundred dollars (\$2,100) per degree; for**
 15 **each degree of permanent impairment from thirty-six (36) to**
 16 **fifty (50), three thousand six hundred dollars (\$3,600) per**
 17 **degree; for each degree of permanent impairment above fifty**
 18 **(50), four thousand five hundred six dollars (\$4,500) per**
 19 **degree.**

20 **(10) With respect to disablements occurring on and after July**
 21 **1, 2005, and before July 1, 2006, for each degree of permanent**
 22 **impairment from one (1) to ten (10), two thousand one**
 23 **hundred dollars (\$2,100) per degree; for each degree of**
 24 **permanent impairment from eleven (11) to thirty-five (35),**
 25 **two thousand three hundred dollars (\$2,300) per degree; for**
 26 **each degree of permanent impairment from thirty-six (36) to**
 27 **fifty (50), four thousand dollars (\$4,000) per degree; for each**
 28 **degree of permanent impairment above fifty (50), five**
 29 **thousand dollars (\$5,000) per degree.**

30 **(11) With respect to disablements occurring on and after July**
 31 **1, 2006, for each degree of permanent impairment from one**
 32 **(1) to ten (10), two thousand three hundred dollars (\$2,300)**
 33 **per degree; for each degree of permanent impairment from**
 34 **eleven (11) to thirty-five (35), two thousand five hundred**
 35 **dollars (\$2,500) per degree; for each degree of permanent**
 36 **impairment from thirty-six (36) to fifty (50), four thousand**
 37 **four hundred dollars (\$4,400) per degree; for each degree of**
 38 **permanent impairment above fifty (50), five thousand five**
 39 **hundred dollars (\$5,500) per degree.**

40 ~~(j)~~ **(o)** The average weekly wages used in the determination of
 41 compensation for permanent partial impairment under subsections ~~(g)~~
 42 ~~and~~ ~~(h)~~ **(i) through (n)** shall not exceed the following:

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- 1 (1) With respect to disablements occurring on or after July 1,
- 2 1991, and before July 1, 1992, four hundred ninety-two dollars
- 3 (\$492).
- 4 (2) With respect to disablements occurring on or after July 1,
- 5 1992, and before July 1, 1993, five hundred forty dollars (\$540).
- 6 (3) With respect to disablements occurring on or after July 1,
- 7 1993, and before July 1, 1994, five hundred ninety-one dollars
- 8 (\$591).
- 9 (4) With respect to disablements occurring on or after July 1,
- 10 1994, and before July 1, 1997, six hundred forty-two dollars
- 11 (\$642).
- 12 (5) With respect to disablements occurring on or after July 1,
- 13 1997, and before July 1, 1998, six hundred seventy-two dollars
- 14 (\$672).
- 15 (6) With respect to disablements occurring on or after July 1,
- 16 1998, and before July 1, 1999, seven hundred two dollars (\$702).
- 17 (7) With respect to disablements occurring on or after July 1,
- 18 1999, and before July 1, 2000, seven hundred thirty-two dollars
- 19 (\$732).
- 20 (8) With respect to disablements occurring on or after July 1,
- 21 2000, and before July 1, 2001, seven hundred sixty-two dollars
- 22 (\$762).
- 23 (9) With respect to ~~injuries~~ **disablements** occurring on or after
- 24 July 1, 2001, and before July 1, 2002, eight hundred twenty-two
- 25 dollars (\$822).
- 26 (10) With respect to ~~injuries~~ **disablements** occurring on or after
- 27 July 1, 2002, **and before July 1, 2004**, eight hundred eighty-two
- 28 dollars (\$882).
- 29 **(11) With respect to disablements occurring on or after July**
- 30 **1, 2004, and before July 1, 2005, one thousand two dollars**
- 31 **(\$1,002).**
- 32 **(12) With respect to disablements occurring on or after July**
- 33 **1, 2005, and before July 1, 2006, one thousand sixty-five**
- 34 **dollars (\$1,065).**
- 35 **(13) With respect to injuries occurring on or after July 1,**
- 36 **2006, one thousand one hundred twenty-two dollars (\$1,122).**
- 37 **(p)** If any employee, only partially disabled, refuses employment
- 38 suitable to ~~his~~ **the employee's** capacity, ~~procured for him,~~ **he the**
- 39 **employee** shall not be entitled to any compensation at any time during
- 40 the continuance of such refusal unless, in the opinion of the worker's
- 41 compensation board, such refusal was justifiable. The employee must
- 42 be served with a notice setting forth the consequences of the refusal

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under this subsection. The notice must be in a form prescribed by the worker's compensation board.

~~(k)~~ **(q)** If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which ~~he~~ **the employee** suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by an occupational disease shall be considered as a permanent impairment or physical condition.

~~(t)~~ **(r)** If an employee suffers a disablement from occupational disease for which compensation is payable while the employee is still receiving or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, ~~he~~ **the employee** shall not at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection ~~(g)(1), (g)(4), (g)(5), (g)(8)~~ **(l)(1), (l)(4), (l)(5), (l)(8), (l)(9), (m)(1), (m)(4), (m)(5), (m)(8), or (g)(9) (m)(9)**; but the employee shall be entitled to compensation for that disability and from the time of that disability which will cover the longest period and the largest amount payable under this chapter.

~~(m)~~ **(s)** If an employee receives a permanent disability from occupational disease such as specified in subsection ~~(g)(1), (g)(4), (g)(5), (g)(8)~~ **(l)(1), (l)(4), (l)(5), (l)(8), (l)(9), (m)(1), (m)(4), (m)(5), (m)(8), or (g)(9) (m)(9)** after having sustained another such permanent disability in the same employment the employee shall be entitled to compensation for both such disabilities, but the total compensation shall be paid by extending the period and not by increasing the amount

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1 of weekly compensation and, when such previous and subsequent
 2 permanent disabilities, in combination result in total permanent
 3 disability or permanent total impairment, compensation shall be
 4 payable for such permanent total disability or impairment, but
 5 payments made for the previous disability or impairment shall be
 6 deducted from the total payment of compensation due.

7 ~~(n)~~ When an employee has been awarded or is entitled to an award
 8 of compensation for a definite period under this chapter for disability
 9 from occupational disease, which disablement occurs on and after April
 10 1, 1951, and prior to April 1, 1963, and such employee dies from any
 11 other cause than such occupational disease, payment of the unpaid
 12 balance of such compensation, not exceeding three hundred (300)
 13 weeks, shall be made to the employee's dependents of the second and
 14 third class as defined in sections 11 through 14 of this chapter, and
 15 compensation, not exceeding five hundred (500) weeks, shall be made
 16 to the employee's dependents of the first class as defined in sections 11
 17 through 14 of this chapter. ~~(t)~~ When an employee has been awarded or
 18 is entitled to an award of compensation for a definite period from an
 19 occupational disease wherein disablement occurs on and after April 1,
 20 1963, and such employee dies from other causes than such
 21 occupational disease, payment of the unpaid balance of such
 22 compensation not exceeding three hundred fifty (350) weeks shall be
 23 paid to the employee's dependents of the second and third class as
 24 defined in sections 11 through 14 of this chapter and compensation, not
 25 exceeding five hundred (500) weeks shall be made to the employee's
 26 dependents of the first class as defined in sections 11 through 14 of this
 27 chapter.

28 ~~(o)~~ **(u)** Any payment made by the employer to the employee during
 29 the period of the employee's disability, or to the employee's dependents,
 30 which, by the terms of this chapter, was not due and payable when
 31 made, may, subject to the approval of the worker's compensation board,
 32 be deducted from the amount to be paid as compensation, but such
 33 deduction shall be made from the distal end of the period during which
 34 compensation must be paid, except in cases of temporary disability.

35 ~~(p)~~ **(v)** When so provided in the compensation agreement or in the
 36 award of the worker's compensation board, compensation may be paid
 37 semimonthly, or monthly, instead of weekly.

38 ~~(q)~~ **(w)** When the aggregate payments of compensation awarded by
 39 agreement or upon hearing to an employee or dependent under eighteen
 40 (18) years of age do not exceed one hundred dollars (\$100), the
 41 payment thereof may be made directly to such employee or dependent,
 42 except when the worker's compensation board shall order otherwise.

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1 (x) Whenever the aggregate payments of compensation, due to any
 2 person under eighteen (18) years of age, exceed one hundred dollars
 3 (\$100), the payment thereof shall be made to a trustee, appointed by the
 4 circuit or superior court, or to a duly qualified guardian, or, upon the
 5 order of the worker's compensation board, to a parent or to such minor
 6 person. The payment of compensation, due to any person eighteen (18)
 7 years of age or over, may be made directly to such person.

8 (y) If an employee, or a dependent, is mentally incompetent, or
 9 a minor at the time when any right or privilege accrues to the employee
 10 under this chapter, the employee's guardian or trustee may, in the
 11 employee's behalf, claim and exercise such right and privilege.

12 (z) All compensation payments named and provided for in this
 13 section, shall mean and be defined to be for only such occupational
 14 diseases and disabilities therefrom as are proved by competent
 15 evidence, of which there are or have been objective conditions or
 16 symptoms proven, not within the physical or mental control of the
 17 employee himself.

18 SECTION 24. IC 22-3-7-16.1 IS ADDED TO THE INDIANA
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2004]: **Sec. 16.1. (a) This section applies only
 21 to disablements occurring after June 30, 1999, for which awards
 22 are made by the board under this chapter.**

23 **(b) On or after January 1, 2006, if an employee who is entitled
 24 to compensation under this chapter either:**

25 **(1) exhausts the maximum benefits under this chapter without
 26 having received the full amount of award granted to the
 27 employee under this chapter; or**

28 **(2) exhausts the employee's benefits under this chapter;
 29 the employee may apply to the worker's compensation board,
 30 which may award the employee compensation from the second
 31 injury fund under IC 22-3-4-15 as provided in subsection (c).**

32 **(c) An employee who has exhausted the employee's maximum
 33 benefits under this chapter may be awarded additional
 34 compensation equal to sixty-six and two-thirds percent (66 2/3%)
 35 of the employee's average weekly wage at the time of the
 36 employee's disablement from occupational disease, not to exceed
 37 the maximum applicable under this chapter for a period not to
 38 exceed one hundred fifty (150) weeks upon competent evidence
 39 sufficient to establish:**

40 **(1) that the employee is totally and permanently disabled from
 41 an occupational disease of which there are or have been
 42 objective conditions and symptoms proven that are not within**

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1 the physical or mental control of the employee; and
2 (2) that the employee is unable to support the employee in any
3 gainful employment, not associated with rehabilitative or
4 vocational therapy.

5 (d) The additional award may be renewed during the employee's
6 period of total and permanent disability after appropriate hearings
7 by the worker's compensation board for successive periods not to
8 exceed one hundred fifty (150) weeks each.

9 (e) Section 11 of this chapter does not apply to compensation
10 awarded from the second injury fund under this section.

11 SECTION 25. IC 22-3-7-16.5 IS ADDED TO THE INDIANA
12 CODE AS A NEW SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2004]: Sec. 16.5. (a) If an employee:

14 (1) suffers an occupational disease that results in a temporary
15 total disability or a temporary partial disability;

16 (2) is capable of performing work with permanent limitations
17 or restrictions that prevent the employee from returning to
18 the position the employee held before the employee's
19 occupational disease; and

20 (3) is enrolled in a training program approved by:

21 (A) the incumbent workers training board established by
22 IC 22-4-18.3-2; or

23 (B) the Indiana unemployment insurance board created by
24 IC 22-4-18-2;

25 the employee may receive disabled from trade compensation.

26 (b) An employee may receive disabled from trade compensation
27 for a period not to exceed:

28 (1) fifty-two (52) consecutive weeks; or

29 (2) seventy-eight (78) total weeks.

30 (c) An employee is entitled to receive disabled from trade
31 compensation in a weekly amount equal to the difference between
32 the employee's average weekly wage from employment at the time
33 of the injury and the employee's average weekly wage from
34 employment after the injury with the permanent restrictions or
35 limitations resulting from the injury.

36 (d) The amount of disabled from trade compensation may not
37 exceed the maximum average weekly wage amounts set forth in
38 section 19 of this chapter.

39 (e) Not later than sixty (60) days after the employee's release to
40 return to work with restrictions or limitations, the employee must
41 receive notice from the employer on a form provided by the board
42 that informs the employee that the employee has been released to

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work with limitations or restrictions. The notice must include:

- (1) an explanation of the limitations or restrictions placed on the employee;**
- (2) the amount of disabled from trade compensation the employee has been awarded; and**
- (3) information for the employee regarding the terms of this section.**

(f) Disabled from trade compensation is in addition to any other compensation awarded to an employee as a result of a temporary total disability or a permanent partial impairment.

(g) An employer may unilaterally convert an award of compensation for a temporary total disability or a temporary partial disability into disabled from trade compensation by filing a copy of the notice required under subsection (e) with the board.

SECTION 26. IC 22-3-7-17, AS AMENDED BY P.L.31-2000, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. (a) During the period of disablement, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of ~~his~~ **the employee's** occupational disease, and in addition thereto such surgical, hospital, and nursing services and supplies as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, the employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of the travel by the state of Indiana to its employees. If the treatment or travel to or from the place of treatment causes a loss of working time to the employee, the employer shall reimburse the employee for the loss of wages using the basis of the employee's average daily wage.

(b) During the period of disablement resulting from the occupational disease, the employer shall furnish such physician, services, and supplies, and the worker's compensation board may, on proper application of either party, require that treatment by such physician and such services and supplies be furnished by or on behalf of the employer as the board may deem reasonably necessary. After an employee's occupational disease has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27(i) of this chapter, the employer may continue to furnish a physician or a surgeon and other medical services and supplies, and the board may, within such statutory period for review as provided in section 27(i) of this

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1 chapter, on a proper application of either party, require that treatment
 2 by such physician or surgeon and such services and supplies be
 3 furnished by and on behalf of the employer as the board may deem
 4 necessary to limit or reduce the amount and extent of such impairment.
 5 The refusal of the employee to accept such services and supplies when
 6 so provided by or on behalf of the employer, shall bar the employee
 7 from all compensation otherwise payable during the period of such
 8 refusal and ~~his~~ **the employee's** right to prosecute any proceeding under
 9 this chapter shall be suspended and abated until such refusal ceases.
 10 The employee must be served with a notice setting forth the
 11 consequences of the refusal under this section. The notice must be in
 12 a form prescribed by the worker's compensation board. No
 13 compensation for permanent total impairment, permanent partial
 14 impairment, permanent disfigurement, or death shall be paid or payable
 15 for that part or portion of such impairment, disfigurement, or death
 16 which is the result of the failure of such employee to accept such
 17 treatment, services, and supplies, provided that an employer may at any
 18 time permit an employee to have treatment for ~~his~~ **the employee's**
 19 disease or injury by spiritual means or prayer in lieu of such physician,
 20 services, and supplies.

21 (c) **After the employee's medical treatment with an attending**
 22 **physician described in subsection (a) begins, neither the employer**
 23 **nor the employer's insurance carrier has the right to transfer or**
 24 **otherwise redirect an employee's medical treatment to another**
 25 **physician unless:**

- 26 (1) **the employee signs a written informed consent to the**
- 27 **transfer or redirection that acknowledges the employee's**
- 28 **right to refuse the transfer or redirection;**
- 29 (2) **the employee requests the transfer or redirection;**
- 30 (3) **the attending physician requests that:**
 - 31 (A) **the attending physician's treatment of the employee be**
 - 32 **discontinued; or**
 - 33 (B) **the treatment be transferred or redirected to a**
 - 34 **physician practicing a different specialty; or**
 - 35 (4) **the worker's compensation board determines that there is**
 - 36 **good cause for the transfer or redirection.**

37 (d) **If the employer or the employer's insurance carrier desires**
 38 **to transfer or redirect the employee's medical treatment under**
 39 **subsection (c)(4) for good cause, the employer or the employer's**
 40 **insurance carrier shall file a transfer request with the worker's**
 41 **compensation board on forms prescribed by the board. A transfer**
 42 **may not occur until the worker's compensation board issues an**

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1 **order granting the transfer request.**

2 (e) Regardless of when it occurs, where a compensable occupational
3 disease results in the amputation of a body part, the enucleation of an
4 eye, or the loss of natural teeth, the employer shall furnish an
5 appropriate artificial member, braces, and prosthodontics. The cost of
6 repairs to or replacements for the artificial members, braces, or
7 prosthodontics that result from a compensable occupational disease
8 pursuant to a prior award and are required due to either medical
9 necessity or normal wear and tear, determined according to the
10 employee's individual use, but not abuse, of the artificial member,
11 braces, or prosthodontics, shall be paid from the second injury fund
12 upon order or award of the worker's compensation board. The
13 employee is not required to meet any other requirement for admission
14 to the second injury fund.

15 ~~(d)~~ (f) If an emergency or because of the employer's failure to
16 provide such attending physician or such surgical, hospital, or nurse's
17 services and supplies or such treatment by spiritual means or prayer as
18 specified in this section, or for other good reason, a physician other
19 than that provided by the employer treats the diseased employee within
20 the period of disability, or necessary and proper surgical, hospital, or
21 nurse's services and supplies are procured within the period, the
22 reasonable cost of such services and supplies shall, subject to approval
23 of the worker's compensation board, be paid by the employer.

24 ~~(e)~~ (g) This section may not be construed to prohibit an agreement
25 between an employer and employees that has the approval of the board
26 and that:

- 27 (1) binds the parties to medical care furnished by providers
28 selected by agreement before or after disablement; or
29 (2) makes the findings of a provider chosen in this manner
30 binding upon the parties.

31 ~~(f)~~ (h) The employee and the employee's estate do not have liability
32 to a health care provider for payment for services obtained under this
33 section. The right to order payment for all services provided under this
34 chapter is solely with the board. All claims by a health care provider for
35 payment for services are against the employer and the employer's
36 insurance carrier, if any, and must be made with the board under this
37 chapter.

38 SECTION 27. IC 22-3-7-19, AS AMENDED BY P.L.31-2000,
39 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2004]: Sec. 19. ~~(a) In computing compensation for temporary
41 total disability, temporary partial disability, and total permanent
42 disability under this law with respect to occupational diseases~~



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- 1 occurring:
- 2 (1) on and after July 1, 1974, and before July 1, 1976, the average
- 3 weekly wages shall be considered to be:
- 4 (A) not more than one hundred thirty-five dollars (\$135); and
- 5 (B) not less than seventy-five dollars (\$75);
- 6 (2) on and after July 1, 1976, and before July 1, 1977, the average
- 7 weekly wages shall be considered to be:
- 8 (A) not more than one hundred fifty-six dollars (\$156); and
- 9 (B) not less than seventy-five dollars (\$75);
- 10 (3) on and after July 1, 1977, and before July 1, 1979, the average
- 11 weekly wages are considered to be:
- 12 (A) not more than one hundred eighty dollars (\$180); and
- 13 (B) not less than seventy-five dollars (\$75);
- 14 (4) on and after July 1, 1979, and before July 1, 1980, the average
- 15 weekly wages are considered to be:
- 16 (A) not more than one hundred ninety-five dollars (\$195); and
- 17 (B) not less than seventy-five dollars (\$75);
- 18 (5) on and after July 1, 1980, and before July 1, 1983, the average
- 19 weekly wages are considered to be:
- 20 (A) not more than two hundred ten dollars (\$210); and
- 21 (B) not less than seventy-five dollars (\$75);
- 22 (6) on and after July 1, 1983, and before July 1, 1984, the average
- 23 weekly wages are considered to be:
- 24 (A) not more than two hundred thirty-four dollars (\$234); and
- 25 (B) not less than seventy-five dollars (\$75); and
- 26 (7) on and after July 1, 1984, and before July 1, 1985, the average
- 27 weekly wages are considered to be:
- 28 (A) not more than two hundred forty-nine dollars (\$249); and
- 29 (B) not less than seventy-five dollars (\$75);
- 30 (b) (a) In computing compensation for temporary total disability,
- 31 temporary partial disability, and total permanent disability, with respect
- 32 to occupational diseases occurring on and after July 1, 1985, and before
- 33 July 1, 1986, the average weekly wages are considered to be:
- 34 (1) not more than two hundred sixty-seven dollars (\$267); and
- 35 (2) not less than seventy-five dollars (\$75).
- 36 (c) (b) In computing compensation for temporary total disability,
- 37 temporary partial disability, and total permanent disability, with respect
- 38 to occupational diseases occurring on and after July 1, 1986, and before
- 39 July 1, 1988, the average weekly wages are considered to be:
- 40 (1) not more than two hundred eighty-five dollars (\$285); and
- 41 (2) not less than seventy-five dollars (\$75).
- 42 (d) (c) In computing compensation for temporary total disability,

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1 temporary partial disability, and total permanent disability, with respect
 2 to occupational diseases occurring on and after July 1, 1988, and before
 3 July 1, 1989, the average weekly wages are considered to be:

- 4 (1) not more than three hundred eighty-four dollars (\$384); and
- 5 (2) not less than seventy-five dollars (\$75).

6 ~~(c)~~ (d) In computing compensation for temporary total disability,
 7 temporary partial disability, and total permanent disability, with respect
 8 to occupational diseases occurring on and after July 1, 1989, and before
 9 July 1, 1990, the average weekly wages are considered to be:

- 10 (1) not more than four hundred eleven dollars (\$411); and
- 11 (2) not less than seventy-five dollars (\$75).

12 ~~(f)~~ (e) In computing compensation for temporary total disability,
 13 temporary partial disability, and total permanent disability, with respect
 14 to occupational diseases occurring on and after July 1, 1990, and before
 15 July 1, 1991, the average weekly wages are considered to be:

- 16 (1) not more than four hundred forty-one dollars (\$441); and
- 17 (2) not less than seventy-five dollars (\$75).

18 ~~(g)~~ (f) In computing compensation for temporary total disability,
 19 temporary partial disability, and total permanent disability, with respect
 20 to occupational diseases occurring on and after July 1, 1991, and before
 21 July 1, 1992, the average weekly wages are considered to be:

- 22 (1) not more than four hundred ninety-two dollars (\$492); and
- 23 (2) not less than seventy-five dollars (\$75).

24 ~~(h)~~ (g) In computing compensation for temporary total disability,
 25 temporary partial disability, and total permanent disability, with respect
 26 to occupational diseases occurring on and after July 1, 1992, and before
 27 July 1, 1993, the average weekly wages are considered to be:

- 28 (1) not more than five hundred forty dollars (\$540); and
- 29 (2) not less than seventy-five dollars (\$75).

30 ~~(i)~~ (h) In computing compensation for temporary total disability,
 31 temporary partial disability, and total permanent disability, with respect
 32 to occupational diseases occurring on and after July 1, 1993, and before
 33 July 1, 1994, the average weekly wages are considered to be:

- 34 (1) not more than five hundred ninety-one dollars (\$591); and
- 35 (2) not less than seventy-five dollars (\$75).

36 ~~(j)~~ (i) In computing compensation for temporary total disability,
 37 temporary partial disability and total permanent disability, with respect
 38 to occupational diseases occurring on and after July 1, 1994, and before
 39 July 1, 1997, the average weekly wages are considered to be:

- 40 (1) not more than six hundred forty-two dollars (\$642); and
- 41 (2) not less than seventy-five dollars (\$75).

42 ~~(k)~~ (j) In computing compensation for temporary total disability,

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1 temporary partial disability, and total permanent disability, the average
2 weekly wages are considered to be:

3 (1) with respect to occupational diseases occurring on and after
4 July 1, 1997, and before July 1, 1998:

5 (A) not more than six hundred seventy-two dollars (\$672); and

6 (B) not less than seventy-five dollars (\$75);

7 (2) with respect to occupational diseases occurring on and after
8 July 1, 1998, and before July 1, 1999:

9 (A) not more than seven hundred two dollars (\$702); and

10 (B) not less than seventy-five dollars (\$75);

11 (3) with respect to occupational diseases occurring on and after
12 July 1, 1999, and before July 1, 2000:

13 (A) not more than seven hundred thirty-two dollars (\$732);

14 and

15 (B) not less than seventy-five dollars (\$75);

16 (4) with respect to occupational diseases occurring on and after
17 July 1, 2000, and before July 1, 2001:

18 (A) not more than seven hundred sixty-two dollars (\$762); and

19 (B) not less than seventy-five dollars (\$75);

20 (5) with respect to disablements occurring on and after July 1,
21 2001, and before July 1, 2002:

22 (A) not more than eight hundred twenty-two dollars (\$822);

23 and

24 (B) not less than seventy-five dollars (\$75); ~~and~~

25 (6) with respect to disablements occurring on and after July 1,
26 2002, **and before July 1, 2004:**

27 (A) not more than eight hundred eighty-two dollars (\$882);

28 and

29 (B) not less than seventy-five dollars (\$75);

30 **(7) with respect to disablements occurring on and after July**
31 **1, 2004, and before July 1, 2005:**

32 **(A) not more than one thousand two dollars (\$1,002); and**

33 **(B) not less than forty (40) times the state minimum wage**
34 **established by IC 22-2-2;**

35 **(8) with respect to disablements occurring on and after July**
36 **1, 2005, and before July 1, 2006:**

37 **(A) not more than one thousand sixty-two dollars (\$1,062);**

38 **and**

39 **(B) not less than forty (40) times the state minimum wage**
40 **established by IC 22-2-2; and**

41 **(9) with respect to disablements occurring on and after July**
42 **2, 2006;**

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- 1 (A) not more than one thousand one hundred twenty-two
- 2 dollars (\$1,122); and
- 3 (B) not less than forty (40) times the state minimum wage
- 4 established by IC 22-2-2.

5 However, the weekly compensation payable shall not exceed the
 6 actual average weekly wages of the employee at the time of the
 7 disablement.

8 (t) The maximum compensation that shall be paid for occupational
 9 disease and its results under any one (t) or more provisions of this
 10 chapter with respect to disability or death occurring:

- 11 (1) on and after July 1, 1974, and before July 1, 1976, shall not
- 12 exceed forty-five thousand dollars (\$45,000) in any case;
- 13 (2) on and after July 1, 1976, and before July 1, 1977, shall not
- 14 exceed fifty-two thousand dollars (\$52,000) in any case;
- 15 (3) on and after July 1, 1977, and before July 1, 1979, may not
- 16 exceed sixty thousand dollars (\$60,000) in any case;
- 17 (4) on and after July 1, 1979, and before July 1, 1980, may not
- 18 exceed sixty-five thousand dollars (\$65,000) in any case;
- 19 (5) on and after July 1, 1980, and before July 1, 1983, may not
- 20 exceed seventy thousand dollars (\$70,000) in any case;
- 21 (6) on and after July 1, 1983, and before July 1, 1984, may not
- 22 exceed seventy-eight thousand dollars (\$78,000) in any case; and
- 23 (7) on and after July 1, 1984, and before July 1, 1985, may not
- 24 exceed eighty-three thousand dollars (\$83,000) in any case.

25 (m) (k) The maximum compensation with respect to disability or
 26 death occurring on and after July 1, 1985, and before July 1, 1986,
 27 which shall be paid for occupational disease and the results thereof
 28 under the provisions of this chapter or under any combination of its
 29 provisions may not exceed eighty-nine thousand dollars (\$89,000) in
 30 any case. The maximum compensation with respect to disability or
 31 death occurring on and after July 1, 1986, and before July 1, 1988,
 32 which shall be paid for occupational disease and the results thereof
 33 under the provisions of this chapter or under any combination of its
 34 provisions may not exceed ninety-five thousand dollars (\$95,000) in
 35 any case. The maximum compensation with respect to disability or
 36 death occurring on and after July 1, 1988, and before July 1, 1989, that
 37 shall be paid for occupational disease and the results thereof under this
 38 chapter or under any combination of its provisions may not exceed one
 39 hundred twenty-eight thousand dollars (\$128,000) in any case.

40 (n) (l) The maximum compensation with respect to disability or
 41 death occurring on and after July 1, 1989, and before July 1, 1990, that
 42 shall be paid for occupational disease and the results thereof under this

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1 chapter or under any combination of its provisions may not exceed one
2 hundred thirty-seven thousand dollars (\$137,000) in any case.

3 (o) (m) The maximum compensation with respect to disability or
4 death occurring on and after July 1, 1990, and before July 1, 1991, that
5 shall be paid for occupational disease and the results thereof under this
6 chapter or under any combination of its provisions may not exceed one
7 hundred forty-seven thousand dollars (\$147,000) in any case.

8 (p) (n) The maximum compensation with respect to disability or
9 death occurring on and after July 1, 1991, and before July 1, 1992, that
10 shall be paid for occupational disease and the results thereof under this
11 chapter or under any combination of the provisions of this chapter may
12 not exceed one hundred sixty-four thousand dollars (\$164,000) in any
13 case.

14 (q) (o) The maximum compensation with respect to disability or
15 death occurring on and after July 1, 1992, and before July 1, 1993, that
16 shall be paid for occupational disease and the results thereof under this
17 chapter or under any combination of the provisions of this chapter may
18 not exceed one hundred eighty thousand dollars (\$180,000) in any case.

19 (r) (p) The maximum compensation with respect to disability or
20 death occurring on and after July 1, 1993, and before July 1, 1994, that
21 shall be paid for occupational disease and the results thereof under this
22 chapter or under any combination of the provisions of this chapter may
23 not exceed one hundred ninety-seven thousand dollars (\$197,000) in
24 any case.

25 (s) (q) The maximum compensation with respect to disability or
26 death occurring on and after July 1, 1994, and before July 1, 1997, that
27 shall be paid for occupational disease and the results thereof under this
28 chapter or under any combination of the provisions of this chapter may
29 not exceed two hundred fourteen thousand dollars (\$214,000) in any
30 case.

31 (t) (r) The maximum compensation that shall be paid for
32 occupational disease and the results of an occupational disease under
33 this chapter or under any combination of the provisions of this chapter
34 may not exceed the following amounts in any case:

35 (1) With respect to disability or death occurring on and after July
36 1, 1997, and before July 1, 1998, two hundred twenty-four
37 thousand dollars (\$224,000).

38 (2) With respect to disability or death occurring on and after July
39 1, 1998, and before July 1, 1999, two hundred thirty-four
40 thousand dollars (\$234,000).

41 (3) With respect to disability or death occurring on and after July
42 1, 1999, and before July 1, 2000, two hundred forty-four thousand

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- 1 dollars (\$244,000).
- 2 (4) With respect to disability or death occurring on and after July
- 3 1, 2000, and before July 1, 2001, two hundred fifty-four thousand
- 4 dollars (\$254,000).
- 5 (5) With respect to disability or death occurring on and after July
- 6 1, 2001, and before July 1, 2002, two hundred seventy-four
- 7 thousand dollars (\$274,000).
- 8 (6) With respect to disability or death occurring on and after July
- 9 1, 2002, **and before July 1, 2004**, two hundred ninety-four
- 10 thousand dollars (\$294,000).
- 11 **(7) With respect to disability or death occurring on and after**
- 12 **July 1, 2004, and before July 1, 2005, three hundred**
- 13 **thirty-four thousand dollars (\$334,000).**
- 14 **(8) With respect to disability or death occurring on and after**
- 15 **July 1, 2005, and before July 1, 2006, three hundred fifty-four**
- 16 **thousand dollars (\$354,000).**
- 17 **(9) With respect to disability or death occurring on and after**
- 18 **July 1, 2006, three hundred seventy-four thousand dollars**
- 19 **(\$374,000).**

20 (u) For all disabilities occurring before July 1, 1985, "average

21 weekly wages" shall mean the earnings of the injured employee in the

22 employment in which the employee was working at the time of the last

23 exposure during the period of fifty-two (52) weeks immediately

24 preceding the last day of the last exposure divided by fifty-two (52): If

25 the employee lost seven (7) or more calendar days during the period;

26 although not in the same week; then the earnings for the remainder of

27 the fifty-two (52) weeks shall be divided by the number of weeks and

28 parts thereof remaining after the time lost has been deducted: Where

29 the employment prior to the last day of the last exposure extended over

30 a period of less than fifty-two (52) weeks; the method of dividing the

31 earnings during that period by the number of weeks and parts thereof

32 during which the employee earned wages shall be followed if results

33 just and fair to both parties will be obtained: Where by reason of the

34 shortness of the time during which the employee has been in the

35 employment of the employer or of the casual nature or terms of the

36 employment it is impracticable to compute the average weekly wages

37 as above defined, regard shall be had to the average weekly amount

38 which, during the fifty-two (52) weeks previous to the last day of the

39 last exposure; was being earned by a person in the same grade

40 employed at the same work by the same employer; or if there is no

41 person so employed; by a person in the same grade employed in that

42 same class of employment in the same district. Whenever allowances

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1 of any character are made to an employee in lieu of wages or a
2 specified part of the wage contract, they shall be deemed a part of the
3 employee's earnings.

4 (v) (s) For all disabilities occurring on and after July 1, 1985,
5 "average weekly wages" means the earnings of the injured employee
6 during the period of fifty-two (52) weeks immediately preceding the
7 disability divided by fifty-two (52). If the employee lost seven (7) or
8 more calendar days during the period, although not in the same week,
9 then the earnings for the remainder of the fifty-two (52) weeks shall be
10 divided by the number of weeks and parts of weeks remaining after the
11 time lost has been deducted. If employment before the date of disability
12 extended over a period of less than fifty-two (52) weeks, the method of
13 dividing the earnings during that period by the number of weeks and
14 parts of weeks during which the employee earned wages shall be
15 followed if results just and fair to both parties will be obtained. If by
16 reason of the shortness of the time during which the employee has been
17 in the employment of the employer or of the casual nature or terms of
18 the employment it is impracticable to compute the average weekly
19 wages for the employee, the employee's average weekly wages shall be
20 considered to be the average weekly amount that, during the fifty-two
21 (52) weeks before the date of disability, was being earned by a person
22 in the same grade employed at the same work by the same employer or,
23 if there is no person so employed, by a person in the same grade
24 employed in that same class of employment in the same district.
25 Whenever allowances of any character are made to an employee
26 instead of wages or a specified part of the wage contract, they shall be
27 considered a part of the employee's earnings.

28 (w) (t) The provisions of this article may not be construed to result
29 in an award of benefits in which the number of weeks paid or to be paid
30 for temporary total disability, temporary partial disability, or permanent
31 total disability benefits combined exceeds five hundred (500) weeks.
32 This section shall not be construed to prevent a person from applying
33 for an award under IC 22-3-3-13. However, in case of permanent total
34 disability resulting from a disablement occurring on or after January 1,
35 1998, the minimum total benefit shall not be less than seventy-five
36 thousand dollars (\$75,000).

37 SECTION 28. IC 22-3-7-24 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 24. (a) The worker's
39 compensation board may make rules not inconsistent with this chapter
40 for carrying out the provisions of this chapter. Processes and
41 procedures under this chapter shall be as summary and simple as
42 reasonably may be. The board, or any member thereof, shall have the

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1 power, for the purpose of this chapter, to subpoena witnesses,
 2 administer or cause to have administered oaths, and to examine or
 3 cause to have examined such parts of the books and records of the
 4 parties to a proceeding as relate to questions in dispute. The county
 5 sheriff shall serve all subpoenas of the board and **board ombudsmen**
 6 **appointed under IC 22-3-1-1 and** shall receive the same fees as
 7 provided by law for like service in civil actions. Each witness who
 8 appears in obedience to such subpoena of the board shall receive for
 9 attendance the fees and mileage for witnesses in civil cases in the
 10 courts. The circuit or superior court shall, on application of the board
 11 or any member thereof, enforce by proper proceedings the attendance
 12 and testimony of witnesses and the production and examination of
 13 books, papers, and records.

14 (b) The fees of attorneys and physicians and charges of nurses and
 15 hospitals for services under this chapter shall be subject to the approval
 16 of the worker's compensation board. When any claimant for
 17 compensation is represented by an attorney in the prosecution of ~~his~~
 18 **the claimant's** claim, the board shall fix and state in the award, if
 19 compensation be awarded, the amount of the claimant's attorney's fees.
 20 The fee so fixed shall be binding upon both the claimant and ~~his~~ **the**
 21 **claimant's** attorney, and the employer shall pay to the attorney, out of
 22 the award, the fee so fixed, and the receipt of the attorney therefor shall
 23 fully acquit the employer for an equal portion of the award.

24 (c) Whenever the worker's compensation board shall determine
 25 upon hearing of a claim that the employer has acted in bad faith in
 26 adjusting and settling said award, or whenever the board shall
 27 determine upon hearing of a claim that the employer has not pursued
 28 the settlement of said claim with diligence, then the board shall, if
 29 compensation be awarded, fix the amount of the claimant's attorney's
 30 fees and such attorney's fees shall be paid to the attorney and shall not
 31 be charged against the award to the claimant. Such fees as are fixed and
 32 awarded on account of a lack of diligence or because of bad faith on the
 33 part of the employer shall not be less than one hundred fifty dollars
 34 (\$150).

35 (d) The worker's compensation board may withhold the approval of
 36 the fees of the attending physician in any case until ~~he shall file the~~
 37 **attending physician files** a report with the board on the form
 38 prescribed by such board.

39 SECTION 29. IC 22-3-7-27, AS AMENDED BY P.L.235-1999,
 40 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2004]: Sec. 27. (a) If the employer and the employee or the
 42 employee's dependents disagree in regard to the compensation payable

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1 under this chapter, or, if they have reached such an agreement, which
 2 has been signed by them, filed with and approved by the worker's
 3 compensation board, and afterward disagree as to the continuance of
 4 payments under such agreement, or as to the period for which payments
 5 shall be made, or as to the amount to be paid, because of a change in
 6 conditions since the making of such agreement, either party may then
 7 make an application to the board for the determination of the matters
 8 in dispute. When compensation which is payable in accordance with an
 9 award or by agreement approved by the board is ordered paid in a lump
 10 sum by the board, no review shall be had as in this subsection
 11 mentioned.

12 (b) The application making claim for compensation filed with the
 13 worker's compensation board shall state the following:

- 14 (1) The approximate date of the last day of the last exposure and
 15 the approximate date of the disablement.
- 16 (2) The general nature and character of the illness or disease
 17 claimed.
- 18 (3) The name and address of the employer by whom employed on
 19 the last day of the last exposure, and if employed by any other
 20 employer after such last exposure and before disablement, the
 21 name and address of such other employer or employers.
- 22 (4) In case of death, the date and place of death.
- 23 (5) Amendments to applications making claim for compensation
 24 which relate to the same disablement or disablement resulting in
 25 death originally claimed upon may be allowed by the board in its
 26 discretion, and, in the exercise of such discretion, it may, in
 27 proper cases, order a trial de novo. Such amendment shall relate
 28 back to the date of the filing of the original application so
 29 amended.

30 (c) Upon the filing of such application, the board shall set the date
 31 of hearing, which shall be as early as practicable, and shall notify the
 32 parties, in the manner prescribed by the board, of the time and place of
 33 hearing. The hearing of all claims for compensation on account of
 34 occupational disease shall be held in the county in which the last
 35 exposure occurred or in any adjoining county, except when the parties
 36 consent to a hearing elsewhere. Claims assigned to an individual board
 37 member that are considered to be of an emergency nature by that board
 38 member, may be heard in any county within the board member's
 39 jurisdiction.

40 (d) The board by any or all of its members **or by board**
 41 **ombudsmen appointed under IC 22-3-1-1** shall hear the parties at
 42 issue, their representatives, and witnesses, and shall determine the

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1 dispute in a summary manner. The award shall be filed with the record
 2 of proceedings, and a copy thereof shall immediately be sent by
 3 registered mail to each of the parties in dispute.

4 (e) If an application for review is made to the board within thirty
 5 (30) days from the date of the award made by less than all the
 6 members, the full board, if the first hearing was not held before the full
 7 board, shall review the evidence, or, if deemed advisable, hear the
 8 parties at issue, their representatives, and witnesses as soon as
 9 practicable, and shall make an award and file the same with the finding
 10 of the facts on which it is based and send a copy thereof to each of the
 11 parties in dispute, in like manner as specified in subsection (d).

12 (f) An award of the board by less than all of the members as
 13 provided in this section, if not reviewed as provided in this section,
 14 shall be final and conclusive. An award by the full board shall be
 15 conclusive and binding unless either party to the dispute, within thirty
 16 (30) days after receiving a copy of such award, appeals to the court of
 17 appeals under the same terms and conditions as govern appeals in
 18 ordinary civil actions. The court of appeals shall have jurisdiction to
 19 review all questions of law and of fact. The board, of its own motion,
 20 may certify questions of law to the court of appeals for its decision and
 21 determination. An assignment of errors that the award of the full board
 22 is contrary to law shall be sufficient to present both the sufficiency of
 23 the facts found to sustain the award and the sufficiency of the evidence
 24 to sustain the finding of facts. All such appeals and certified questions
 25 of law shall be submitted upon the date filed in the court of appeals,
 26 shall be advanced upon the docket of the court, and shall be determined
 27 at the earliest practicable date, without any extensions of time for filing
 28 briefs. An award of the full board affirmed on appeal, by the employer,
 29 shall be increased thereby five percent (5%), and by order of the court
 30 may be increased ten percent (10%).

31 (g) Upon order of the worker's compensation board made after five
 32 (5) days notice is given to the opposite party, any party in interest may
 33 file in the circuit or superior court of the county in which the
 34 disablement occurred a certified copy of:

- 35 (1) the memorandum of agreement, approved by the board; ~~or of~~
- 36 (2) an order or decision of the board; ~~or of~~
- 37 (3) an award of the full board unappealed from; ~~or of~~
- 38 (4) an award of the full board affirmed upon an appeal;

39 whereupon the court shall render judgment in accordance therewith
 40 and notify the parties. Such judgment shall have the same effect and all
 41 proceedings in relation thereto shall thereafter be the same as though
 42 such judgment has been rendered in a suit duly heard and determined

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1 by the court. Any such judgment of such circuit or superior court,
 2 unappealed from or affirmed on appeal or modified in obedience to the
 3 mandate of the court of appeals, shall be modified to conform to any
 4 decision of the industrial board ending, diminishing, or increasing any
 5 weekly payment under the provisions of subsection (†) (k) upon the
 6 presentation to it of a certified copy of such decision.

7 (h) **An employer shall pay a judgment entered under subsection**
 8 **(g) not later than thirty (30) days after the date the judgment is**
 9 **final.**

10 (i) **An employer that fails to pay a judgment under this section**
 11 **by the time required by subsection (h) shall pay the employee for**
 12 **each day that the amount due the employee remains unpaid a**
 13 **penalty equal to ten percent (10%) of the amount awarded the**
 14 **employee in addition to the amount due. The maximum penalty**
 15 **payable under this subsection is twice the unpaid amount due the**
 16 **employee. The employee may recover the unpaid judgment and the**
 17 **penalty described in this subsection in any court having**
 18 **jurisdiction of a suit to collect the unpaid judgment along with**
 19 **reasonable attorney's fees.**

20 (j) In all proceedings before the worker's compensation board or in
 21 a court under the compensation provisions of this chapter, the costs
 22 shall be awarded and taxed as provided by law in ordinary civil actions
 23 in the circuit court. **Prejudgment interest shall be awarded at a rate**
 24 **of ten percent (10%) per year, accruing from the date of filing of**
 25 **the application for adjustment of claim as determined under**
 26 **subsection (a).**

27 (†) (k) The power and jurisdiction of the worker's compensation
 28 board over each case shall be continuing, and, from time to time, it
 29 may, upon its own motion or upon the application of either party on
 30 account of a change in conditions, make such modification or change
 31 in the award ending, lessening, continuing, or extending the payments
 32 previously awarded, either by agreement or upon hearing, as it may
 33 deem just, subject to the maximum and minimum provided for in this
 34 chapter. When compensation which is payable in accordance with an
 35 award or settlement contract approved by the board is ordered paid in
 36 a lump sum by the board, no review shall be had as in this subsection
 37 mentioned. Upon making any such change, the board shall immediately
 38 send to each of the parties a copy of the modified award. No such
 39 modification shall affect the previous award as to any money paid
 40 thereunder. The board shall not make any ~~such~~ modification upon its
 41 own motion ~~nor shall or upon~~ any application ~~therefor be~~ filed by
 42 either party after the expiration of two (2) years from **the latest of the**

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following:

~~(1)~~ the last day for which compensation was paid ~~under the original award made either by agreement or upon hearing, except that applications for increased permanent partial impairment are barred unless filed within one (1) year from the last day for which compensation was paid:~~ **for temporary total disability, permanent partial impairment, or permanent total disability.**

~~(2)~~ **The date of an award for temporary total disability, permanent partial impairment, or permanent total disability.**

~~(3)~~ **The last day that medical expenses under section 17 of this chapter were provided to the employee.**

The board may at any time correct any clerical error in any finding or award.

~~(j)~~ **(l)** The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified physician or surgeon to make any necessary medical examination of the employee and to testify in respect thereto. Such physician or surgeon shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such physician or surgeon shall be paid by the state only on special order of the board or a member thereof.

~~(k)~~ **(m)** The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified industrial hygienist, industrial engineer, industrial physician, or chemist to make any necessary investigation of the occupation in which the employee alleges that ~~he~~ **the employee** was last exposed to the hazards of the occupational disease claimed upon, and testify with respect to the occupational disease health hazards found by such person or persons to exist in such occupation. Such person or persons shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such persons shall be paid by the state, only on special order of the board or a member thereof.

~~(l)~~ **(n)** Whenever any claimant misconceives the claimant's remedy and files an application for adjustment of a claim under IC 22-3-2 through IC 22-3-6 and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury or death which was the basis for such application should properly have been made under the provisions of this chapter, then the application so filed under IC 22-3-2 through IC 22-3-6 may be amended in form or substance or both to assert a claim for such disability or death under the provisions of this chapter, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such

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1 compensation may be awarded as is warranted by the whole evidence
 2 pursuant to the provisions of this chapter. When such amendment is
 3 submitted, further or additional evidence may be heard by the worker's
 4 compensation board when deemed necessary. Nothing in this section
 5 contained shall be construed to be or permit a waiver of any of the
 6 provisions of this chapter with reference to notice or time for filing a
 7 claim, but notice of filing of a claim, if given or done, shall be deemed
 8 to be a notice or filing of a claim under the provisions of this chapter
 9 if given or done within the time required in this chapter.

10 SECTION 30. IC 27-4-1-4, AS AMENDED BY P.L.178-2003,
 11 SECTION 35, AS AMENDED BY P.L.201-2003, SECTION 2, AND
 12 AS AMENDED BY P.L.211-2003, SECTION 1, IS CORRECTED
 13 AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 14 2004]: Sec. 4. The following are hereby defined as unfair methods of
 15 competition and unfair and deceptive acts and practices in the business
 16 of insurance:

17 (1) Making, issuing, circulating, or causing to be made, issued, or
 18 circulated, any estimate, illustration, circular, or statement:

19 (A) misrepresenting the terms of any policy issued or to be
 20 issued or the benefits or advantages promised thereby or the
 21 dividends or share of the surplus to be received thereon;

22 (B) making any false or misleading statement as to the
 23 dividends or share of surplus previously paid on similar
 24 policies;

25 (C) making any misleading representation or any
 26 misrepresentation as to the financial condition of any insurer,
 27 or as to the legal reserve system upon which any life insurer
 28 operates;

29 (D) using any name or title of any policy or class of policies
 30 misrepresenting the true nature thereof; or

31 (E) making any misrepresentation to any policyholder insured
 32 in any company for the purpose of inducing or tending to
 33 induce such policyholder to lapse, forfeit, or surrender ~~his~~ *the*
 34 *policyholder's* insurance.

35 (2) Making, publishing, disseminating, circulating, or placing
 36 before the public, or causing, directly or indirectly, to be made,
 37 published, disseminated, circulated, or placed before the public,
 38 in a newspaper, magazine, or other publication, or in the form of
 39 a notice, circular, pamphlet, letter, or poster, or over any radio or
 40 television station, or in any other way, an advertisement,
 41 announcement, or statement containing any assertion,
 42 representation, or statement with respect to any person in the

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conduct of ~~his~~ *the person's* insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant

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factor.
(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

- (i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;
- (ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or
- (iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the

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1 contract, or any special favor or advantage in the dividends,
 2 savings, or other benefits thereon, or any valuable consideration
 3 or inducement whatever not specified in the contract or policy; or
 4 giving, or selling, or purchasing or offering to give, sell, or
 5 purchase as inducement to such insurance or annuity or in
 6 connection therewith, any stocks, bonds, or other securities of any
 7 insurance company or other corporation, association, limited
 8 liability company, or partnership, or any dividends, savings, or
 9 profits accrued thereon, or anything of value whatsoever not
 10 specified in the contract. Nothing in this subdivision and
 11 subdivision (7) shall be construed as including within the
 12 definition of discrimination or rebates any of the following
 13 practices:

- 14 (A) Paying bonuses to policyholders or otherwise abating their
 15 premiums in whole or in part out of surplus accumulated from
 16 nonparticipating insurance, so long as any such bonuses or
 17 abatement of premiums are fair and equitable to policyholders
 18 and for the best interests of the company and its policyholders.
- 19 (B) In the case of life insurance policies issued on the
 20 industrial debit plan, making allowance to policyholders who
 21 have continuously for a specified period made premium
 22 payments directly to an office of the insurer in an amount
 23 which fairly represents the saving in collection expense.
- 24 (C) Readjustment of the rate of premium for a group insurance
 25 policy based on the loss or expense experience thereunder, at
 26 the end of the first year or of any subsequent year of insurance
 27 thereunder, which may be made retroactive only for such
 28 policy year.
- 29 (D) Paying by an insurer or ~~agent~~ *insurance producer* thereof
 30 duly licensed as such under the laws of this state of money,
 31 commission, or brokerage, or giving or allowing by an insurer
 32 or such licensed ~~agent~~ *insurance producer* thereof anything of
 33 value, for or on account of the solicitation or negotiation of
 34 policies or other contracts of any kind or kinds, to a broker,
 35 ~~agent, an insurance producer,~~ or a solicitor duly licensed
 36 under the laws of this state, but such broker, ~~agent,~~ *insurance*
 37 *producer,* or solicitor receiving such consideration shall not
 38 pay, give, or allow credit for such consideration as received in
 39 whole or in part, directly or indirectly, to the insured by way of
 40 rebate.
- 41 (9) Requiring, as a condition precedent to loaning money upon the
 42 security of a mortgage upon real property, that the owner of the

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property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance ~~agent producer~~ or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of ~~its or his~~ the lender's right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of ~~agents insurance producers~~ or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, ~~agent, insurance producer,~~ or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of ~~his, her, or it's~~ the right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

- (A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit

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- 1 unions.
- 2 (B) Insurance employed as a means of guaranteeing the
- 3 performance of goods and designed to benefit the purchasers
- 4 or users of such goods.
- 5 (C) Title insurance.
- 6 (D) Insurance written in connection with an indebtedness and
- 7 intended as a means of repaying such indebtedness in the
- 8 event of the death or disability of the insured.
- 9 (E) Insurance provided by or through motorists service clubs
- 10 or associations.
- 11 (F) Insurance that is provided to the purchaser or holder of an
- 12 air transportation ticket and that:
 - 13 (i) insures against death or nonfatal injury that occurs during
 - 14 the flight to which the ticket relates;
 - 15 (ii) insures against personal injury or property damage that
 - 16 occurs during travel to or from the airport in a common
 - 17 carrier immediately before or after the flight;
 - 18 (iii) insures against baggage loss during the flight to which
 - 19 the ticket relates; or
 - 20 (iv) insures against a flight cancellation to which the ticket
 - 21 relates.
- 22 (14) Refusing, because of the for-profit status of a hospital or
- 23 medical facility, to make payments otherwise required to be made
- 24 under a contract or policy of insurance for charges incurred by an
- 25 insured in such a for-profit hospital or other for-profit medical
- 26 facility licensed by the state department of health.
- 27 (15) Refusing to insure an individual, refusing to continue to issue
- 28 insurance to an individual, limiting the amount, extent, or kind of
- 29 coverage available to an individual, or charging an individual a
- 30 different rate for the same coverage, solely because of that
- 31 individual's blindness or partial blindness, except where the
- 32 refusal, limitation, or rate differential is based on sound actuarial
- 33 principles or is related to actual or reasonably anticipated
- 34 experience.
- 35 (16) Committing or performing, with such frequency as to
- 36 indicate a general practice, unfair claim settlement practices (as
- 37 defined in section 4.5 of this chapter).
- 38 (17) Between policy renewal dates, unilaterally canceling an
- 39 individual's coverage under an individual or group health
- 40 insurance policy solely because of the individual's medical or
- 41 physical condition.
- 42 (18) Using a policy form or rider that would permit a cancellation

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- 1 of coverage as described in subdivision (17).
- 2 (19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor
- 3 vehicle insurance rates.
- 4 (20) Violating IC 27-8-21-2 concerning advertisements referring
- 5 to interest rate guarantees.
- 6 (21) Violating IC 27-8-24.3 concerning insurance and health plan
- 7 coverage for victims of abuse.
- 8 (22) Violating IC 27-8-26 concerning genetic screening or testing.
- 9 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
- 10 insurance producers.
- 11 (24) Violating IC 27-1-38 concerning depository institutions.
- 12 (25) *Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning*
- 13 *the resolution of an appealed grievance decision.*
- 14 ~~(25)~~ **(26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) or**
- 15 **IC 27-8-5-19.2.**
- 16 ~~(25)~~ **(27) Violating IC 27-2-21 concerning use of credit**
- 17 **information.**
- 18 **(28) Violating IC 22-3-4-15 concerning second injury fund**
- 19 **assessments.**

20 SECTION 31. IC 33-13-8-2.1 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.1. "Judge", as defined
 22 in section 2 of this chapter, includes:

- 23 (1) a person who has served or is serving as a regular judge of the
- 24 Indiana tax court; or
- 25 (2) a person who is appointed after June 30, 2004, and serves
- 26 as a member of the worker's compensation board established
- 27 by IC 22-3-1-1.

28 SECTION 32. [EFFECTIVE JULY 1, 2004] (a) As used in this
 29 SECTION, "committee" refers to the worker's compensation
 30 board performance evaluation committee established by
 31 IC 22-3-1-4, as added by this act.

32 (b) The governor shall make the initial appointments to the
 33 committee not later than July 1, 2004. In making an initial
 34 appointments, the governor shall indicate the length of the term for
 35 which the individual is appointed.

36 (c) The initial terms of office for the five (5) individuals
 37 appointed to the committee by the governor are as follows:

- 38 (1) Two (2) members for a term of four (4) years.
- 39 (2) One (1) member for a term of three (3) years.
- 40 (3) One (1) member for a term of two (2) years.
- 41 (4) One (1) member for a term of one (1) year.

42 (d) The initial terms begin July 1, 2004.

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1 (e) This SECTION expires July 1, 2008.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1309, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1309 as introduced.)

LIGGETT, Chair

Committee Vote: yeas 8, nays 6.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1309, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 24, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 10. IC 22-3-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 21. In all cases of the death of an employee from an injury by an accident arising out of and in the course of the employee's employment under such circumstances that the employee would have been entitled to compensation if death had not resulted, the employer shall pay the burial expenses of such employee, not exceeding ~~six~~ **eight** thousand **five hundred** dollars (~~\$6,000~~): (**\$8,500**)."

Page 41, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 22. IC 22-3-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. In all cases of the death of an employee from an occupational disease arising out of and in the course of the employee's employment under such circumstances that the employee would have been entitled to compensation if death had not resulted, the employer shall pay the burial expenses of such employee, not exceeding ~~six~~ **eight** thousand **five hundred** dollars (~~\$6,000~~): (**\$8,500**)."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1309 as printed January 23, 2004.)

CRAWFORD, Chair

Committee Vote: yeas 18, nays 7.

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